

2022 No. 163

LOCAL GOVERNMENT

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

Made - - - - *24th March 2022*

Coming into operation *18th April 2022*

The Department for Communities(a), with the consent of the Department of Finance(b), makes these Regulations in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014(c), and now vested in it(d).

In accordance with section 21 of that Act, the Department has consulted with such persons or representatives of such persons as appear to the Department likely to be affected by these Regulations.

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 established by The Local Government Pension Scheme Regulations (Northern Ireland) 2014(e), or the schemes preserved by the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014(f), nor in any other way in relation to members of those schemes. Accordingly, the procedures set out in section 23 of that Act are not applicable in respect of these Regulations.

Citation, commencement and retrospectio

1.—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2022 and except as provided for in paragraph (2) shall come into operation on 18th April 2022.

(2) These Regulations shall come into effect as follows—

- (a) regulations 8, 9, 18(a), 18(b), 18(c) and 23 from 1st April 2015; and
- (b) regulation 18(d) from 5th December 2005.

(a) Formerly known as the Department for Social Development; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.)
(b) Formerly known as the Department of Finance and Personnel; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.)
(c) 2014 c.2 (N.I.)
(d) *See* S.R. 2016 No. 76, Article 8 of and Schedule 5 to the Departments (Transfer of Functions) Order (Northern Ireland) 2016 transferred functions to the Department for Communities which were previously exercisable by the Department of the Environment
(e) S.R. No. 188 as amended by S.R. 2015 No. 77, S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2019 No. 206 and S.R. 2020 No. 77
(f) S.R. No. 189 as amended by S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2016 No. 329, S.R. 2019 No. 206 and S.R. 2020 No. 77

Amendment of the Local Government Pension Scheme Regulations (Northern Ireland) 2014

2. The Local Government Pension Scheme Regulations (Northern Ireland) 2014 shall be amended in accordance with regulations 3 to 15.

3. In regulation 2 (introduction and interpretation) after paragraph (3) insert—

“(3A) The Department may issue guidance to the Committee on the administration and management of the Scheme.

(3B) Before preparing or revising guidance under paragraph (3A), the Department must consult such persons as appear appropriate to it.”.

4. In regulation 16A (contributions during absences with permission) omit “; or is for a period longer than 30 consecutive days, in respect of the first 30 days of that absence only”.

5. In regulation 19 (additional voluntary contributions)—

(a) omit paragraph (5A); and

(b) in paragraph (13) for “Where a member has attained the age of 75, at” substitute “At”.

6. For regulation 20(5) (rights to return of contributions) substitute—

“(5) The Committee shall refund contributions to a person entitled under paragraph (1)—

(a) when the person requests payment before the expiry of 5 years beginning with the date the person’s active membership ceased;

(b) if no request has been made before then, the Committee may, at its discretion, make a refund of contributions on or after the expiry of 5 years beginning with the date the person’s active membership ceased; or

(c) if a person attains the age of 75 before a request is made, on the day before attaining age 75.”.

7. At the end of regulation 28 (retirement pension accounts: deferred members and pension credit members) insert—

“(8) If the member ceased to be an active member, became a deferred member and a pensioner member all within the same Scheme year, the balance in the member’s retirement pension account at the end of the Scheme year in which the retirement 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 retirement pension account was opened, in accordance with the actuarial guidance issued by the Department.”.

8. In regulation 40(1) (death grants: active members) omit “before attaining the age of 75”.

9. In regulation 51(1) (death grants: pensioner members) omit “before attaining the age of 75”.

10. In regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained)—

(a) after paragraph (2) insert—

“(2A) The Department, subject to such conditions as it considers appropriate, may approve the issue of an interim exit certificate by the Committee under paragraph (2) to be replaced by an exit certificate at a later date.

(2B) Any payments made by an exiting employer on the basis of an interim exit certificate under paragraph (2A) does not count as an exit payment for the purposes of paragraph (9).”;

(b) in paragraph 14—

(i) at the end of the definition of “exiting employer” delete “and”; and

(ii) after the definition of “exiting employer” insert—

““interim exit certificate” means a certificate produced in accordance with paragraph (2A); and”.

11. In regulations 85(1) (notice of decisions by the appointed person under regulation 84) and 87(1) (notice of decisions by the Committee under regulation 86) for “two months” substitute “four months”.

12. In regulation 102(2) (forfeiture of pension rights after conviction for employment-related offences) omit “and because of which the member left that employment”.

13. In Schedule 1 (interpretation)—

- (a) at the end of the definition of “local government employment” insert “but excludes employment with an employer after it has ceased to be an employing authority in the Scheme;”; and
- (b) in the definition of “public service pension scheme” omit “means;”; and
- (c) at the end of the definition of “survivor pension” insert “and any pension payable under the former Regulations to a survivor;”.

14. In paragraph 8(a) of Part 1 (admission bodies) of Schedule 2 (admission agreements with admission bodies) for “shall” substitute “may”.

15. For paragraph 13 in Part 2 (powers of the Committee) of Schedule 3 (the committee: preliminary provisions), substitute—

“13. The Committee may make arrangements with any employing authority, admission body, Government department or district council for the exercise of any pension function by the Committee on behalf of any employing authority, admission body, Government department or district council on such terms as may be provided for by the arrangements.”.

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

16. The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 shall be amended in accordance with regulations 17 to 20.

17. For regulation 16(1) (death grants) substitute—

“16.—(1) Death grants in the case of a member who did not accrue any membership of the Scheme are calculated under the earlier Schemes notwithstanding the revocations effected by regulation 2 (revocation of regulations) save that regulations 32(4) and 35(4) of the Benefits Regulations, and regulation 41(7) of the 2002 Regulations shall not apply.”.

18. In regulation 17 (survivor benefits)—

- (a) in the heading for “Survivor benefits” substitute “Survivor pension”;
- (b) in paragraph (1)—
 - (i) for “Survivor pensions” substitute “Except where regulation 9A(4) (aggregation adjustments etc.) applies, survivor pension”; and
 - (ii) for “are” substitute “is”;
- (c) in paragraph (2)(a) for “benefit” substitute “pension”;
- (d) for paragraphs (5) to (9) substitute—

“(5) For the purposes of calculating eligibility of a person to survivor pension under the 2009 Scheme and the other earlier Schemes—

- (a) the definition of “eligible child” contained in Schedule 1 (interpretation) to the 2014 Regulations is substituted for the definition contained in regulation 26 (meaning of “eligible child”) of the Benefits Regulations and the corresponding provisions in the former regulations;
- (b) any calculation of the survivor pension payable under the former regulations to a person who is the surviving civil partner of a member is on the basis that the survivor is a surviving spouse; and

(c) in the calculation of any survivor pension under the former regulations any reference to contracted out membership is to be read as including contracted in membership.

(6) Any calculation of any survivor pension payable under the former regulations in respect of a surviving cohabiting partner, is only to take account of membership accrued by that member after 5th April 1988.

(7) Any calculation of any survivor pension payable under the former regulations in respect of surviving civil partner or spouse of a member who enters into a civil partnership or marriage after leaving active membership and dies is only to take account of membership accrued by that member after 5th April 1978, except where regulation F11 (cessation of membership before the commencement date) of the 2000 Regulations applies.

(8) Despite paragraph (5)(b), for the purposes of paragraphs (6), (7), (9) membership includes—

- (a) relevant additional membership that would have counted as membership for the purposes of regulations 44 and 44A of the 2002 Regulations (reduction of some surviving spouses' and civil partners' pensions);
- (b) membership that would have counted under regulation F3, F4 or F5 (spouse pensions in certain cases) of the 2000 Regulations by virtue of regulation F6 (post-retirement marriages) of those Regulations; and
- (c) any membership purchased under regulation 14A of the Benefits Regulations (elections to pay additional contributions: survivor benefits)."; and

(e) for paragraph (10) substitute—

“(9) Any calculation of any survivor pension payable under the former regulations in respect of surviving civil partner or spouse of a member who enters into a civil partnership or marriage after leaving active membership and dies where that member has made an inward transfer to the Scheme after 5th April 1988 in relation to which the member is entitled to reckon a period of service or, as the case may be, count a period of membership under the former regulations, that period of service or membership shall be regarded as a period of service or membership after 5th April 1978, (except where regulation F11 (cessation of membership before the commencement date) of the 2000 Regulations applies, that period of service or membership shall be regarded as a period of service or membership after 5th April 1988) notwithstanding the following provisions and without limiting the effect of those provisions in relation to any other matter—

- (a) regulations K14 (inward transfers) and K15 (right to count service) of the 2000 Regulations;
- (b) regulations 124 (inward transfers of pension rights) and 125 (right to count credited period) of the 2002 Regulations;
- (c) regulations 79 (inward transfer of pension rights) and 80 (right to count credited period) of the Administration Regulations; and
- (d) regulation 9 (transfers).”.

19. In Schedule 1 (interpretation) at the end of the definition of “survivor pension” insert “and any pension payable under the former regulations to a survivor;”.

20. In Schedule 3 (the 85 year rule: transitional provisions and savings) at the end of paragraph 1(3)(a) insert “or regulation 33(4) (other early leavers: deferred retirement benefits and elections for early payment) of the 2002 Regulations”.

Amendment of The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009

21. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(a) shall be amended in accordance with regulations 22 and 23.

22. Omit regulation 11(3) (final pay: fluctuating emoluments).

23. In regulation 35(1) (death grants: pensioner members) omit “before his 75th birthday”.

Revocation

24. Regulation 29(a) of The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016(b) is revoked with effect from 1st April 2015.

Sealed with the Official Seal of the Department for Communities on 24th March 2022



Anthony Carleton
A senior officer of the Department for Communities

The Department of Finance consents to these Regulations
Sealed with the Official Seal of the Department of Finance on 24th March 2022



Barry Armstrong
A senior officer of the Department of Finance

(a) S.R. 2009 No. 32; relevant amendments are S.R. 2010 No. 410, S.R. 2014 No. 189 and S.R. 2019 No. 206
(b) S.R. 2016 No. 128

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations make minor technical amendments to the following Regulations –

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

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

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009; and

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016.

Regulation 2 introduces amendments to The Local Government Pension Scheme Regulations (Northern Ireland) 2014.

Regulation 3 enables the Department to issue guidance to the administering authority on the administration and management of the Scheme.

Regulation 4 clarifies when contributions should be made during absences with permission (the 30 day rule).

Regulation 5 removes the 50% limit of pensionable pay limit 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).

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.

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.

Regulations 8, 9 and 23 remove the age qualification from the criteria for the award of death grants.

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.

Regulation 11 amends regulations 85 and 87 to extend the period within which a decision must be issued from 2 months to 4 months.

Regulation 12 amends regulation 102(2) (forfeiture of pension rights after conviction for employment-related offences) to clarify the definition of a relevant offence. Where a member is convicted of a relevant offence, an employing authority may apply to a Minister of the Crown who may issue a forfeiture certificate.

Regulation 13 amends the definitions of “local government employment”, “public service pension scheme” and “survivor pension” in Schedule 1 (interpretation).

Regulation 14 makes a minor amendment to Part 1 (admission bodies) of Schedule 2 (admission agreements with admission bodies).

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.

Regulation 16 introduces amendments to the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014.

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.

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.

Regulation 19 clarifies the definition of "survivor pension" to ensure it includes any survivor pension payable under the former Regulations.

Regulation 20 clarifies the criteria for eligibility for the 85 year rule.

Regulation 21 introduces amendments to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009.

Regulation 22 amends regulation 11 to clarify the calculation of fluctuating emoluments.

Regulation 24 revokes an earlier amendment.