

## EXPLANATORY MEMORANDUM TO

### The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2026

#### S.R. 2026 No. 111

#### 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 the Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”) (c. 2 (NI)), and the Public Service Pensions and Judicial Offices Act 2022 (“the 2022 Act”) (c. 7). It is subject to the negative resolution procedure. The Department of Finance has consented to the making of these Regulations.
- 1.3. Section 3(3)(b) of the 2014 Act provides that scheme regulations may make retrospective provision. These Regulations are retrospective in effect. 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 are not applicable in relation to these Regulations.

#### 2. Purpose

- 2.1. The purpose of these regulations is to amend the Local Government Pension Scheme (Northern Ireland) (“LGPS (NI)”) to give the Northern Ireland Local Government Officers’ Superannuation Committee (NILGOSC), as the scheme manager, the discretion to disapply the requirement to include the McCloud Remedy information in ABSs for 2025/26 and 2026/27 for specific members or groups.
- 2.2. The Regulations do so by modifying certain statutory provisions contained in or made under the Public Service Pensions and Judicial Offices Act 2022 (c. 7), which made changes to the transitional protections for certain persons who were members of previous versions of the LGPS (NI) to address unlawful age discrimination of the sort identified in the case of *McCloud v Lord Chancellor* [2018] EWCA Civ 2844 (“the McCloud Remedy”).
- 2.3. The differences between the original regulations (the position before this set of amendment Regulations come into operation) and the new regulations (the position after this set of amendment Regulations come into operation) are summarised in the following paragraphs.
- 2.4. Regulation 2 makes provision about the McCloud Remedy in the context of the annual benefit statements (“ABSs”) that NILGOSC is required to issue to their active, deferred and pension credit members every year under regulation 99 of the Local Government Pension Scheme Regulations (Northern Ireland) 2014 (SR 2014 No. 188) (“the 2014 Regulations”).
- 2.5. Regulations 2(2) and 3 provide that, where these regulations apply, provisions of the 2022 Act and the Local Government Pension Scheme (Amendment No. 2)

Regulations (Northern Ireland) 2023 (SR 2023 No. 149) are disapplied for the purposes of preparing ABSs, meaning that NILGOSC would not be required to include information about the McCloud Remedy in ABSs. This provision has retrospective effect to the 1 October 2023, meaning that it will apply in respect of any ABSs that have issued between that date and these Regulations coming into operation.

- 2.6. Regulations 4(1) and 5 enable NILGOSC to determine that this should not apply in respect of a member or class of members. Regulations 4(2) and 6 also allow NILGOSC to determine that these regulations should be extended, in respect of a member or class of members, to ABSs for Scheme years 2025/26 and 2026/27.

### **Why is it being changed?**

- 2.7. An ABS provides an estimate of the pension benefits a member has built up in the LGPS (NI) as at 31 March in the current year. It may also provide a projection of the pension that the member could have if that member continues to work until normal pension age (this is linked to state pension age in the LGPS (NI)).
- 2.8. Currently, under regulation 99 of the 2014 Regulations the scheme manager, NILGOSC, must issue an ABS for all active, deferred and pension credit members within 5 months of the end of the scheme year to which it relates (i.e. by 31 August each year). The legislation currently provides that each ABS must include the McCloud Remedy for 2023/24 onwards.
- 2.9. In August 2024, the Department made the Local Government Pension Scheme (Amendment) Regulations (NI) 2024 (SR 2024 No. 159), to disapply the requirement to include McCloud Remedy information in ABSs for 2023/24. These Regulations also provided NILGOSC with a discretion to extend this exemption for the 2024/25 ABSs in respect of any member or group of members.
- 2.10. NILGOSC has estimated that the extension of this exemption for 2025/26 ABSs would apply to approximately 400 members of the LGPS (NI) and it may not have the information to do so for some members' 2026/27 ABSs.
- 2.11. Under these Regulations, NILGOSC may disapply the requirement to include the McCloud Remedy information in the 2025/26 ABSs and the 2026/27 ABSs, for a member or a group of members.

### **3. Consultation**

- 3.1. 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 targeted consultation was carried out with the LGPS (NI) Scheme Advisory Board and with the Scheme manager, NILGOSC. The Scheme Advisory Board, which is responsible for providing advice to the Minister for Communities on making changes to Scheme Regulations, includes 4 members representative of LGPS (NI) employers, 4 members representative of employees (nominated by the Northern Ireland Committee of the Irish Congress of Trade Unions) and 2 advisors from NILGOSC. One response was received and it was supportive of these proposals.

#### **4. Equality Impact**

- 4.1. The Department has considered 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 section 75 group. The screening analysis concluded that a full equality impact assessment is not required as no adverse impacts have been identified.

#### **5. Regulatory Impact**

- 5.1. The Department considers that the amendments will not have a direct impact on businesses, charities, social economy enterprises or the voluntary sector.

#### **6. Financial Implications**

- 6.1. No Executive expenditure required.

#### **7. Section 24 of the Northern Ireland Act 1998**

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

#### **8. EU Implications**

- 8.1. Not applicable.

#### **9. Parity or Replicatory Measure**

- 9.1. Not applicable.

#### **10. Additional Information**

- 10.1. Not applicable.