



Department of the
Environment
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**Proposed Scheme Design for the
Local Government Pension Scheme
(Northern Ireland) 2014**

Consultation Document

April 2013

**PROPOSED SCHEME DESIGN FOR THE LOCAL GOVERNMENT PENSION
SCHEME (NORTHERN IRELAND) FROM 1 APRIL 2014**

This Consultation Document seeks views on the Department's proposals for the new scheme design for the Local Government Pension Scheme (Northern Ireland) from 1 April 2014.

Comments should be sent by 6 June 2013 to:

Local Government Policy Division

Department of the Environment

1st Floor, Millennium House

Malone Lower

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Belfast, BT2 7BN

E-mail: LGPDConsultation@doeni.gov.uk

The following persons will be able to answer queries in relation to this consultation.

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Purpose of the Consultation Document

1. The Department of the Environment is seeking views from consultees on its proposal for a revised scheme design for the Local Government Pension Scheme (Northern Ireland) (LGPS (NI)).
2. The detail of the scheme will be set out in regulations. A copy of the draft regulations which contain the proposed benefit design are attached at Annex C. The Department proposes to make the regulations in 2013 and bring them into operation on 1 April 2014.

Background

3. In March 2010 the Chancellor of the Exchequer invited Lord Hutton to chair the Independent Public Service Pensions Commission (the Commission). The Commission undertook a fundamental structural review of public service pension provision and set out recommendations to the Coalition Government on pension arrangements that are sustainable and affordable in the long-term, fair to both the public sector workforce and the taxpayer and consistent with the fiscal challenges ahead, while protecting accrued rights.
4. At the Budget 2011 the Chancellor of the Exchequer announced that the Coalition Government accepted Lord Hutton's

recommendations as the basis for consultation with public sector workers, trade unions and others.

Position in Northern Ireland

5. On 22 September 2011 the Northern Ireland Executive agreed to:
 - commit to the principle of delivering the targeted level of savings to the cost of public sector pension schemes in Northern Ireland, subject to the details of how those savings will be delivered being worked through over time;
 - adopt this approach consistently for each of the different public sector pension schemes; and
 - authorise engagement with the unions to discuss a graduated approach which protects lower paid public sector workers.

6. In February 2012 the Northern Ireland Executive agreed that, because the LGPS (NI) is a funded scheme, the issues of short-term savings and long-term reform could be considered jointly. It was also agreed that the reformed LGPS (NI) would be introduced from 1 April 2014, a year earlier than proposed for the other main public sector pension schemes.

7. On 8 March 2012 the Northern Ireland Executive agreed to commit to the policy for a new career average revalued earnings (CARE) scheme model with pension age linked to State Pension Age to be adopted for general use in the public service pension schemes.

The Local Government Pension Scheme (Northern Ireland) Review Group

8. Also in March, the Minister of the Environment, Alex Attwood, invited the Local Government Pension Scheme (Northern Ireland) Review Group (the Review Group) to consider the issues of short-term savings and long-term reform and to make recommendations to him on the future scheme design.
9. The Review Group is chaired by a senior official from the Department and is made up of four representatives from the larger employer authorities (Local Government, the Education and Library Boards, the Housing Executive and Translink) and four representatives from unions representing employees who belong to the pension scheme (NIPSA, UNISON, UNITE and GMB). The administering authority, the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) is also represented.
10. In the event, it did not prove possible for the Review Group to agree recommendations on a scheme outline.

Proposed Scheme Outline

11. The Minister of the Environment is now considering the introduction of a scheme design from 1 April 2014. A summary of the scheme design and a comparison with the current scheme design is attached at Annexes A and B respectively. The proposed scheme is made up of the following components

Basis of the Pension

12. Currently the LGPS (NI) is a defined benefit final salary scheme. It will remain a defined benefit scheme but will change from 1 April 2014 to a career average revalued earnings basis, known as CARE for short.
13. In a career average scheme the pensionable pay for each year is used to calculate a pension for that year. Each year's pension is then revalued by inflation. The total pension is built up of the sum of each year's revalued pension.
14. Given the scheme's membership profile it is expected that many members of the LGPS (NI) 2014 scheme will benefit from the move to a CARE scheme rather than continuing in the current final salary scheme. Final salary suits some career patterns, usually those with a structured promotional scale. Career average is a better option where the opportunity for promotion is limited.

Question 1

Do you agree with the proposed change to a career revalued earnings (CARE) scheme? If not, what alternative would you suggest?

Accrual Rate

15. The accrual rate for the new scheme will be 1/49th. For each year of membership from 1 April 2014 members will build up a pension of 1/49th of their pensionable pay for that year.

Revaluation Rate

16. Each year's pension build up will be revalued in line with inflation as measured by the consumer price index (CPI).
17. Examples showing how a pension is built up in a CARE scheme are given on pages 8-10.

Question 2

Do you agree with the proposed accrual rate? If not, what alternative would you suggest?

Pensionable Pay

18. It is proposed that pensionable pay in the new scheme will be the amount a member earns including non-contractual overtime and additional hours, if applicable. This will also be the amount that is used to determine the contribution rate for members.

Contribution Rates

19. The contribution rate for members will be determined according to the member's pensionable pay. This means that for members working part-time, the contribution rate will be based on actual pay and not the full time salary for the job.
20. It is also proposed to reduce the number of contribution bands from 7 to 6. The proposed contribution rates for members from 1 April 2014 are shown in the table below.

Band	Pay Range	Contribution Rate	% of Membership¹
1	Up to £13,500	5.5%	42.2%
2	£13,501 to £21,000	5.8%	31.1%
3	£21,001 to £34,000	6.5%	20.3%
4	£34,001 to £43,000	6.8%	4%
5	£43,001 to £85,000	8.5%	2.5%
6	More than £85,000	10.5%	0.01%

21. The average member contribution will remain the same as in the current scheme, 6.4%.
22. As now, the contribution bands would be up-rated each year by the same rate as the annual increase for a pension in payment.
23. The proposed changes to pensionable pay and the contribution bands have implications for employer payroll systems and the Department would particularly welcome views from employers about this.

¹ Figures may not add to 100% due to rounding

Examples of Career Average Pension Calculation

Patricia has a pensionable pay of £10,000 this year so will accrue 1/49th of that pay towards her pension i.e. £10,000 multiplied by 1/49th = £204.08.

Example 1

If Patricia receives no pay rises but inflation is 3% each year her pension would be valued as follows. The further in the past the pension is earned the more multiples of 3% it is increased by.

Year	Pensionable Pay	Pension (Pay X 1/49th)	Revalued Pension
1	£10,000	£204.08	£229.70
2	£10,000	£204.08	£223.01
3	£10,000	£204.08	£216.51
4	£10,000	£204.08	£210.20
5	£10,000	£204.08	£204.08
Total			£1,083.50 per year

The first 4 years of pension built up have been increased to take account of inflation. Year 1 has been increased by the most as it

is furthest in the past and so needs a greater increase to retain its value against inflation.

Example 2

If Patricia did receive pay rises then her pensionable pay each year would increase before revaluation is applied. If inflation was 3% each year and Patricia received a £500 pay increase each year her pension would increase before revaluation is applied. If inflation was 3% each year, and Patricia's pay increased by £500 each year, the calculation of her total pension would be as shown below.

Year	Pensionable Pay	Pension	Revalued Pension
1	£10,000	£204.08	£229.70
2	£10,500	£214.29	£234.16
3	£11,000	£224.49	£238.16
4	£11,500	£234.69	£241.73
5	£12,000	£244.90	£244.90
Total			£1,188.65 per year

Another way to demonstrate this pension build up is to show the revaluation applied each year as in the table below.

Pensionable Pay	Revalued Pension				
	No revaluation	1 year's revaluation	2 year's revaluation	3 year's revaluation	4 year's revaluation
£10,000	£204.08	£210.20 (£204.08 + 3%)	£216.51 (£210.20 + 3%)	£223.01 (£216.51 + 3%)	Year 1 £229.70 (£223.01 + 3%)
£10,500	£214.29	£220.71 (£214.29 + 3%)	£227.34 (£220.71 + 3%)	Year 2 £234.16 (£227.34 + 3%)	
£11,000	£224.49	£231.22 (£224.49 + 3%)	Year 3 £238.16 (£231.22 + 3%)		
£11,500	£234.69	Year 4 £241.73 (£234.69 + 3%)			
£12,000	Year 5 £244.90				

Question 3

Do you agree with the proposed change to pensionable pay? If not, what alternative would you suggest?

Question 4

Do you agree with the proposed contribution bands? If not, what alternative would you suggest?

Question 5

Do you foresee any payroll or administrative difficulties from including non-contractual overtime and additional hours in pensionable pay?

Question 6

Do you foresee any payroll or administrative difficulties from the change to the proposed contribution bands?

Contribution Flexibility

24. It is proposed to introduce a new flexibility for members who already have opted out of the pension scheme, or are considering

opting out to elect to pay half the contributions for half of the pension, while still retaining the full value of other benefits.

25. This 50/50 option would mean that the member would pay half the contribution rate and accrue pension at half the normal accrual rate i.e. 1/98th rather than the main scheme rate of 1/49th. The member would still be eligible for other benefits at full value. For example, a death in service lump sum would be calculated on the full pensionable pay.

26. The 50/50 option is designed as a short-term alternative to opting out of the pension scheme if, for example, members are facing financial pressures. Members would be able to elect for the 50/50 option and from the next pay period their contributions would be halved. No further election is required until the member wishes to re-join the main scheme or the member is brought back into the main scheme under automatic enrolment provisions.

27. Members who have elected for the 50/50 option will be regularly automatically enrolled back into the main scheme under automatic enrolment but may elect to rejoin the 50/50 option, if they wish.

Employer contribution for the 50/50 Option

28. The employer contribution rate will be the same for all members including those who have elected for the 50/50 option but the take

up rate for the 50/50 option will have an effect at future valuations of the fund. If a significant number of members were to elect for this option it could result in a lower employer contribution rate at valuations carried out after 2016.

29. If the 50/50 option attracts an increase in participation by non-members, it could result in increased cash costs in the short-term, but these should be mitigated by the impact of improvements in the membership profile. If this option does encourage younger employees to join the scheme, it will help manage the risk of increased employer contribution rates from an increased maturity in membership.

Question 7

Do you agree that there should be contribution flexibility in the LGPS (NI) 2014?

Question 8

Do you agree with the proposed 50/50 option? If not, what alternative would you suggest?

Question 9

Do you agree that the people who choose the 50/50 option should be brought back into the main scheme at the employer’s automatic enrolment date? If not, what alternative would you suggest?

Normal Pension Age

30. Currently, the LGPS (NI) has a normal retirement age of 65. The Northern Ireland Executive has agreed to link the normal retirement age for members of public sector pension schemes to State Pension Age. It is, therefore, proposed that the normal retirement age will be equal to the member’s State Pension Age, but subject to a minimum of age 65.

31. State Pension Age for men and women will reach 65 by November 2018. The table below shows the equalisation timetable for women.

Date of Birth	New State Pension Age
Before 6 April 1950	60
6 April 1950 – 5 April 1951	In the range 60 – 61
6 April 1951 – 5 April 1952	In the range 61 – 62
6 April 1952 – 5 April 1953	In the range 62 – 63
6 April 1953 – 5 August 1953	In the range 63 – 64

6 August 1953 – 5 December 1953	In the range 64 – 65
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32. State Pension Age will then increase to 66 for men and women from December 2018 to October 2020 as shown in the table below.

Date of Birth	New State Pension Age
6 December 1953 – 5 October 1954	In the range 65 – 66
After 5 October 1954	66

33. Under current legislation, the State Pension Age will rise to 67 between 2034 and 2036 and to 68 between 2044 and 2046. The Coalition Government has, however, recently announced plans to revise the legislation so that State Pension Age will rise to 67 between 2026 and 2028 and rises above age 67 will be linked to increases in life expectancy.
34. The minimum retirement age will stay at age 55. Members will be able to retire at any age on, or after their 55th birthday, but the pension will be reduced by a set amount depending on how many years it is before normal retirement age, when they retire. The reduction is determined by an actuary, so this is known as an actuarial reduction. The actuarial reduction takes into account the fact that a pension paid before normal retirement age for the scheme will be in payment for longer.

35. As now, members who wish to work beyond their normal retirement age will be able to do so. In such cases, the pensions are enhanced to reflect the later payment date.

Protection of Current Benefits

36. The new LGPS (NI) will start on 1 April 2014 and only membership after that date will be on a CARE basis and under the new arrangements.

37. Members of the current scheme will retain the link to final salary and the normal pension age of 65 for the pension that has been built up before 1 April 2014. Retirement age for benefits from 1 April 2014 will be the member's State Pension Age or age 65, whichever is higher.

38. Pension built up in the LGPS before 1 April 2014 will be calculated separately when a member retires and added to the pension built up in the LGPS (NI) 2014.

Members within 10 years of retirement at 1 April 2012

39. To ensure that members who are close to retirement are not worse off by the move to the new arrangements, there will be an

‘underpin’. The ‘underpin’ will apply to members who are within 10 years of normal retirement age (65 years of age) at 1 April 2012.

This means that those members will get a pension at least equal to that they would have received in the pre 2014 scheme.

85 Year Rule

40. The existing protections for members with 85 year rule benefits will continue in the LGPS (NI) 2014.

Question 10

Do you agree that there should be an ‘underpin’ for members aged 55 or over at 1 April 2012? If not, what alternative would you suggest?

Commutation of Pension

41. As now, members will be able to trade (commute) some of their pension for a cash lump sum on retirement. For every £1 of pension given up, the member receives £12 of cash. Up to 25% of a member’s LGPS (NI) benefits can be traded in this way (including any additional voluntary contributions but subject to some HM Revenue and Customs limits).

Death in Service Lump Sum

42. As in the current pension scheme, a death grant of 3 times pensionable pay will be paid in the event of the death of an active member.

Death in Service Survivor Benefits

43. In the event of a member's death, a pension calculated at an accrual rate of 1/160th of the member's total membership, with full enhancement, would be paid to the member's spouse, civil partner or nominated co-habiting partner. This is the same as the current scheme.

Ill-Health Retirement

44. It is proposed to retain the current two tier ill-health provisions. Tier 1 gives immediate payment of benefit with membership enhanced to normal pension age where the member is permanently incapable of carrying out their job and has no reasonable prospect of being able to undertake any gainful employment before normal retirement age. Tier 2 gives immediate payment of benefit with membership enhanced by 25% of the period up to normal retirement age, where the member is permanently incapable of carrying out their job and there is a reasonable prospect that the member will be able to undertake gainful employment before normal retirement age.

Indexation of Pension in Payment

45. It is proposed that pensions in payment will continue to be index linked to the consumer price index (CPI).

Vesting Period

46. The vesting period is the period in which members who leave the scheme can receive a refund of contributions. Currently the LGPS (NI) has a vesting period of 3 months. A member who leaves after 3 months cannot receive a refund of contributions but is entitled to a deferred pension for that period of membership.
47. It is proposed that the 2014 scheme would have a vesting period of 2 years. Members leaving with less than two years membership would have the option of applying for a refund of contributions. Alternatively, a departing member could leave the pension built up with the fund (known as deferring) or transfer it to the pension scheme of their new employer.
48. The two year vesting period also means that members only become eligible for benefits when they have achieved 2 years' membership.

Cost of the Proposed LGPS (NI) 2014

Future Service Costs of the LGPS (NI) 2014

49. The proposed design of the LGPS (NI) 2014 was costed by the then Scheme actuary at 20.3% of the total membership payroll. This is 2% less than the cost of the scheme if it was to remain as a final salary with a normal pension age of 65.
50. The proposed member contribution rates would mean that members will continue to pay the same average contribution as they do now, 6.4%. This gives a notional employer future service rate of 13.9%. As a comparison, the future service rate was assessed as 17.7% at the last valuation of the pension fund in March 2010.
51. The reduction in the future service rate would be largely achieved by the link between normal pension age and State Pension Age for all members from 1 April 2014.
52. The link between normal pension age and State Pension Age would reduce a significant amount of the risk, and potential future cost, currently associated with increasing longevity.

Employer Contributions

53. The employer contribution will be set every 3 years following a valuation of the fund. The next valuation of the fund will be as at 31 March 2013 and that will set the employer contribution from 1 April 2014. When determining the employer contribution, the fund actuary has to take into account both the future service cost and the past service cost (deficit). Given the current market conditions, employers may see the impact of the saving from the new scheme design lessened, or even negated, by further increases in past service costs.

Future Cost Management

54. The LGPS (NI) 2014 will have a mechanism to manage future costs. This is aimed at ensuring that, in future, not all of the risk will fall on the employers but is shared with members. The cost control mechanism will operate within the provisions of the Public Service Pension Schemes Bill which will be considered by the Assembly. The Review Group is considering the issue of a cost control mechanism and will advise Minister Attwood of the outcome of this in the near future. A consultation on the proposed cost control mechanism will be held as soon as possible.

Related Proposals

Councillors' Pensions

55. At the moment, councillors may join the LGPS (NI) provided they are less than 75 years of age. A councillor's pension is calculated on a career average revalued earnings basis at an accrual rate of 1/60th. Various provisions of the current pension scheme do not apply to councillor members because councillors are elected representatives, for example redundancy benefits.
56. The question of if, or how, the proposed LGPS (NI) 2014 would apply to councillors has not yet been decided, and the Department would welcome views on the issue of councillors' pensions from 1 April 2014.

Question 11

Should the proposed LGPS (NI) 2014 pension arrangements also apply to councillors? If not, what alternative arrangements would you suggest?

Draft Regulations

57. A draft of the regulations which would give effect to the proposed scheme design outline is attached at Annex E. The draft will be reviewed and, where necessary, amended, in the light of comments received during the consultation. The Department would welcome comments on the detail of the draft regulations.

58. Further regulations will be required to deal with scheme administration, the cost control mechanism and transitional arrangements. The Department will consult on these as soon as possible.

Human Rights

59. The Department believes that the proposals are compatible with the Human Rights Act 1998. A legal challenge was made in regard to nominated co-habiting partner benefits. An appeal has been lodged and the Department cannot comment further as the matter is before the Court.

Equality

60. Under the terms of section 75 of the Northern Ireland Act 1998, the Department will carry out screening for equality impact. The Department considers that the underpin proposed for members within 10 years of the current normal retirement age at 1 April 2012 is reasonable as this group will have been planning to retire on the basis of the existing scheme and have less time to make alternative arrangements. A copy of the screening form will be placed on the Department's website.

Regulatory Impact Assessment

61. The proposed changes to pensionable pay and the contribution bands will mean that employers will incur some costs from adjustments to their payroll systems. As it is proposed to reduce the number of contribution bands and align them closer to tax bands there should be no undue costs on any of the employing authorities. The Department will, however, conduct a preliminary regulatory impact assessment to determine the likely impact. A copy of the preliminary regulatory impact assessment will be placed on the Department's website.

Rural Proofing

62. The Department has assessed the proposed measures and considers that there would be no differential impact in rural areas or on rural communities.

Freedom of Information Act 2000 – confidentiality of consultations

63. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read Annex C to this consultation on the confidentiality of

consultations. It gives guidance on the legal position about any information given by you in response.

Alternative format

64. Should you require a copy of this document in an alternative format, it can be made available on request in large print, disc, Braille and audiocassette. The Department's text phone number has also been included below to assist the hearing impaired. It may also be made available in minority languages for those who are not proficient in English.

Consultation

65. Comments should be sent by 6 June 2013 to the address below or by e-mail to LGPDConsultations@doeni.gov.uk. The following persons will be able to answer queries in relation to the proposed scheme design:

Patrick Smith - Tel: 02890416759 patrick.smith@doeni.gov.uk

or

Brenda Curtis - Tel: 02890416755 brenda.curtis@doeni.gov.uk

Textphone Number

Tel: 02890540642

66. This Consultation Document is being circulated to persons and bodies listed in Annex D and is also available to view at-

http://www.doeni.gov.uk/index/local_government/local_government_pension_scheme_2014.htm

and

http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm

67. Consultees are invited to use the enclosed document when submitting their comments on these proposals.

Local Government Policy Division

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Summary of Proposed Scheme Design

Basis of Pension	Career Average Revalued Earnings (CARE)
Accrual Rate	1/49th
Revaluation Rate	Consumer Price Index (CPI)
Normal Pension Age	Equal to the member's State Pension Age (minimum of age 65)
Contribution Flexibility	Members can pay 50% contributions for 50% of benefits
Death in Service Lump Sum	3 x pensionable pay

Definition of Pensionable Pay	Actual pensionable pay – to include non-contractual overtime and additional hours
Vesting Period	2 years
Ill-Health Retirements	Will remain as the current two tier system.
Survivor Benefits	Will remain the same
Commutation Rate	£1 of pension for every £12 of lump sum

Annex B

Comparison of Proposed and Current Scheme Design

	LGPS (NI) 2014	LGPS (NI) 2009																																													
Basis of Pension	Career Average Revalued Earnings (CARE)	Final Salary																																													
Accrual Rate	1/49 th	1/60 th																																													
Revaluation Rate	Consumer Price Index (CPI)	Based on final salary																																													
Pensionable Pay	Pay including non-contractual overtime and additional hours	Pay excluding non-contractual overtime and non-pensionable additional hours																																													
Member's Contribution Rate	<table border="1"> <thead> <tr> <th>From</th> <th>To</th> <th>Gross Rate</th> </tr> </thead> <tbody> <tr> <td colspan="2">Up to £13,500</td> <td>5.5%</td> </tr> <tr> <td>£13,501</td> <td>£21,000</td> <td>5.8%</td> </tr> <tr> <td>£21,001</td> <td>£34,000</td> <td>6.5%</td> </tr> <tr> <td>£34,001</td> <td>£43,000</td> <td>6.8%</td> </tr> <tr> <td>£43,001</td> <td>£85,000</td> <td>8.5%</td> </tr> <tr> <td colspan="2">More than £85,000</td> <td>10.5%</td> </tr> </tbody> </table>	From	To	Gross Rate	Up to £13,500		5.5%	£13,501	£21,000	5.8%	£21,001	£34,000	6.5%	£34,001	£43,000	6.8%	£43,001	£85,000	8.5%	More than £85,000		10.5%	<table border="1"> <thead> <tr> <th>From</th> <th>To</th> <th>Gross Rate</th> </tr> </thead> <tbody> <tr> <td colspan="2">Up to £13,500</td> <td>5.5%</td> </tr> <tr> <td>£13,501</td> <td>£15,800</td> <td>5.8%</td> </tr> <tr> <td>£15,801</td> <td>£20,400</td> <td>5.9%</td> </tr> <tr> <td>£20,401</td> <td>£34,000</td> <td>6.5%</td> </tr> <tr> <td>£34,001</td> <td>£45,500</td> <td>6.8%</td> </tr> <tr> <td>£45,501</td> <td>£85,300</td> <td>7.2%</td> </tr> <tr> <td colspan="2">More than £85,300</td> <td>7.5%</td> </tr> </tbody> </table>	From	To	Gross Rate	Up to £13,500		5.5%	£13,501	£15,800	5.8%	£15,801	£20,400	5.9%	£20,401	£34,000	6.5%	£34,001	£45,500	6.8%	£45,501	£85,300	7.2%	More than £85,300		7.5%
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	LGPS (NI) 2014	LGPS (NI) 2009
Contribution Flexibility	Members can pay 50% contributions for 50% benefits	None
Normal Pension Age	Equal to the individual member's State Pension Age (minimum age 65)	65
Lump Sum Trade Off	Trade £1 of pension for £12 lump sum	Trade £1 of pension for £12 lump sum
Death in Service Lump Sum	3 x pensionable pay	3 x pensionable pay
Death in Service Survivor Benefits	1/160th accrual based on Tier 1 ill-health enhancement	1/160th accrual based on Tier 1 ill-health enhancement
Ill-Health Provision	Tier 1 – immediate payment of benefits with membership enhanced to Normal Pension Age (State Pension Age or age 65, whichever is higher).	Tier 1 – immediate payment of benefits with membership enhanced to Normal Pension Age (age 65).
	Tier 2 – immediate payment of pension with 25% enhancement of membership to Normal Pension Age (State Pension Age or age 65, whichever is higher).	Tier 2 – immediate payment of pension with 25% enhancement of membership to Normal Pension Age (age 65).

Indexation of Pension in Payment	Consumer Price Index (CPI)	CPI
Vesting Period	2 years	3 months

The Freedom of Information Act 2000 – confidentiality of consultations

1. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk>).

List of Consultees

All the Members of the Northern Ireland Legislative Assembly

All Northern Ireland political parties MPs and MEPs

The Clerk and Chief Executive of each District Council

The Chief Executive of each Education and Library Board

The Chief Executive, Northern Ireland Housing Executive

Other Employing Authorities contributing to the Local Government Pension Scheme

The Northern Ireland Local Government Association

The Northern Ireland Local Government Officers' Superannuation Committee

The Northern Ireland Committee of the Irish Congress of Trade Unions

The Northern Ireland Public Service Alliance

Various Representative Bodies and Interest Groups

Equality Commission for Northern Ireland

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2013 No.

LOCAL GOVERNMENT

Draft Local Government Pension Scheme Regulations (Northern
Ireland) 2013

Made - - - - - ***
Coming into operation - - - - - ***

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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⁽²⁾, and now vested in it⁽³⁾.

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. These Regulations may be cited as the Local Government Pension Scheme Regulations (Northern Ireland) 2013 and shall come into operation on 1st April 2014.

Introduction and interpretation

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

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

(2) The Committee shall establish a pensions board responsible for assisting it in relation to securing compliance with—

- (a) these Regulations;
- (b) any other legislation relating to the governance and administration of the Scheme; and
- (c) requirements imposed by the Pensions Regulator in relation to the Scheme.

(3) 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.

⁽²⁾ 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).

⁽³⁾ S.R. & O (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6).

Membership

Active membership

3.—b) Subject to regulation 4 (joining the scheme), a person is eligible to be an active member of the Scheme in an employment, if—

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

(2) An active member of the 2009 Scheme is an active member of the Scheme for as long as the active member continues to be in employment which makes the active member eligible to be such in accordance with this Part.

(3) But a person is not an active member unless the person is employed under a contract of employment of more than 3 months' duration, except where—

- (a) the person has applied for membership under this regulation; or
- (b) section 3 (automatic enrolment) of the Pensions (No. 2) Act (Northern Ireland) 2008 applies to the person.

(4) A person employed under a contract of employment of less than 3 months' does not become an active member unless that person applies in writing to the person's employer to be an active member and the person becomes a member on the first day of the first payment period following the application.

(5) Where the Committee enters into an admission agreement with an admission body—

- (a) the admission agreement must comply with the requirements specified in paragraphs 2 to 13 of Schedule 2 (matters to be included in admission agreements with admission bodies); and
- (b) these Regulations apply to the admission body and to employment with the admission body in the same way as if the admission body were an employing authority.

(6) A body designated under the provisions of the Local Government (Superannuation) Act (Northern Ireland) 1950 shall be deemed to have an admission agreement under this regulation for as long as the body continues to employ active members of the Scheme.

(7) 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 for determination.

(8) A person who is eligible to be an active member of the Scheme on the day the person's employment begins becomes an active member on that day or the day that person's employer becomes an employing authority.

(9) A person who is eligible to be an active member of the Scheme, but is not an active member of the Scheme—

- (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 a member of the Scheme in an employment on the auto-enrolment date or auto-re-enrolment date relating to that employment.

(10) An active member has a qualifying service for a period of 2 years if—

- (a) that member has spent two years as an active member of the Scheme;
- (b) a transfer value payment has been accepted in respect of rights accrued in a different occupational pension scheme and that person spent two years as an active member in that scheme;

- (c) the aggregate of the period the person has spent as an active member of the Scheme and of a different occupational pension scheme in respect of which a transfer value payment has been accepted, is 2 years;
- (d) a transfer value payment has been accepted in respect of rights accrued in a scheme or arrangement that does not permit a refund of contributions to the member;
- (e) a transfer value payment has been accepted in respect of rights accrued in a scheme and a contributions equivalent premium cannot be paid under section 51 of the Pension Schemes (Northern Ireland) Act 1993;
- (f) the member already holds a deferred benefit or is in receipt of a pension (other than a survivor's pension or credit member's pension) under these Regulations; or
- (g) a transfer value payment has been made to a qualifying recognised overseas pension scheme (within the meaning of section 169(2) of the Finance Act 2004).

Joining the Scheme

4.—c) A person who is eligible to be an active member of the Scheme on the day his employment begins becomes an active member on that day or on the day that person's employer becomes an employing authority.

(1) A person who applies in writing to his employer to become a member after the date he would otherwise become a member under paragraph (1) becomes a member on the first day of the first payment period following the application.

(2) A person employed under a contract of employment of less than 3 months does not become an active member unless that person applies in writing to his employer to be an active member and he becomes a member on the first day of the first payment period following the application.

Restriction on eligibility for active membership

5.—d) 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 Order of 1972.

(1) "Public service pension scheme" has the meaning given by section 150 (meaning of a "pension scheme") of the Finance Act 2004⁽⁴⁾.

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

(3) A person may not become a member of the Scheme after the day before the 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⁽⁵⁾) 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.

⁽⁴⁾ 2004 c. 12.

⁽⁵⁾ S.I. 2006/1254 (N.I. 9).

Ending active membership

6.—e) 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 from the date that eligibility ceases.

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

(2) But an active member who gives notice under paragraph (2) specifying a date earlier than the date the notice is given ceases to be an active member in that employment at the end of the payment period during which the notice is given.

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

(4) A person who ceases to be an active member before being an active member of the Scheme for 2 years is to be treated as not having been an active member except for the purposes of regulation 20(1) (exclusion of right to refund of contributions when restarting active membership).

Deferred members

7.—f) A person is a deferred member of the Scheme if—

- (a) the person was an active member of the Scheme for at least 2 years or, where a transfer value payment has been accepted in relation to the person, the period of the person's active membership in the Scheme and in the membership to which the transfer payment relates, amounts to at least 2 years;
- (b) the person is no longer an active member of the Scheme in relation to the qualifying service mentioned in sub-paragraph (a);
- (c) the person has not started to receive any pension under the Scheme in relation to that qualifying service; 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 a different category in relation to a different period of membership.

Pensioner members

8.—g) A person is a pensioner member of the Scheme if that person was an active member of the Scheme and is in receipt of a benefit from the Scheme relating to that membership.

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

Pension credit and survivor members

9.—h) A person is a pension credit member of the Scheme if that person is potentially entitled to a benefit under the Scheme as a consequence of a pension debit created under Article 26 of the Welfare Reform and Pensions (Northern Ireland) Order 1999⁽⁶⁾ in relation to a member of the Scheme.

(1) A person is a survivor of a member of the Scheme if that person is entitled to a benefit under regulations 40, 41, 43, 44, 46 or 47 (survivor pensions).

⁽⁶⁾ S.I. 1999/3147 (N.I. 11).

Contributions

Contributions

10.—i) Subject to regulation 11, each active member shall pay contributions to the Scheme at the contributions rate applicable to the annual pensionable pay that member is receiving in the pay period in which April 1st falls 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).

(1) The contribution rates applicable are as specified in the following table, with the contribution rate specified in the right hand column applicable to the band of pensionable pay specified in the left hand 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</i>	<i>Contribution rate</i>
1	Up to £13,500	5.5%
2	£13,501 to £21,000	5.8%
3	£21,001 to £34,000	6.5%
4	£34,001 to £43,000	6.8%
5	£43,001 to £85,000	8.5%
6	More than £85,000	10.5%

(2) 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 authority shall inform the member of the contribution rate applicable and the date from which it is to be applied.

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

(4) In paragraph (4), "the appropriate increase" means the amount 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 to which the Pensions (Increase) Act (Northern Ireland) 1971 applied.

(5) For this regulation and regulation 11 (temporary reduction in contributions) any reduction in pensionable pay by reason of the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work shall be disregarded for the purposes of identifying which is the applicable contributions rate.

Temporary reduction in contributions

11.—j) An active member may elect to pay reduced contributions for a period by giving written notice to the member's employing authority that the member wishes to do so.

(1) Where a notice is given under paragraph (1), from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay is 50% of what would otherwise be payable under regulation 10 (contributions).

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

(3) Where a notice is given under paragraph (3) from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay is as provided by regulation 10.

(4) An active member's election under paragraph (1) is cancelled—

- (a) on the member's auto-enrolment date or re-enrolment date;
- (b) on the date 30 days after a member begins to be treated as receiving assumed pensionable pay under regulation 22 (assumed pensionable pay), and

the contribution rate payable on the member's pensionable pay is as provided by regulation 11 (contributions) from that date.

(5) A member may make a further election under paragraph (1) at any time when the member is liable to make contributions as is provided by regulation 10 (contributions).

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

Contributions during absence from work

12.—k) An active member must pay contributions under regulation 10 (contributions) or 11 (temporary reduction in contributions) during an absence from work on child-related leave in accordance with regulation 13(1) (contributions during child-related leave) if that applies and may pay contributions if regulation 13(3) applies.

(1) An active member must pay contributions under regulations 10 (contributions) or 11 (temporary reduction in contributions) during an absence on reserve forces leave in accordance with regulation 14 (contributions during reserve forces leave).

(2) An active member absent from work because of a trade dispute may pay contributions under regulations 10 or 11 in respect of that period of absence in accordance with regulation 15 (contributions during trade dispute absence).

(3) An active member absent from work with permission (otherwise than because of illness or injury) must pay contributions under regulations 10 or 11 in respect of that period of absence in accordance with regulation 16(1) (contributions during absences with permission) if that applies, and may pay contributions under regulation 16(2) if that applies.

(4) A person remains an active member of the Scheme during any absence from work of the description mentioned in paragraphs (1) to (4) and continues to accrue earned pension in accordance with regulation 24(4) (active member pension accounts) or (5) so long as, if required to pay contributions, those contributions are paid.

(5) A person ceases to accrue any further earned pension in the Scheme during any absence from work of the description mentioned in paragraphs (1) to (4)—

- (a) if that person fails to pay contributions when required; or
- (b) if that person is entitled to pay contributions but does not do so,

but that person does not become a deferred member of the Scheme.

(6) an application to make contributions relating to an absence from work, where permitted under these Regulations, must be made in writing to the member's employing authority before the expiry of a period of 30 days, or such longer period as the authority may allow, beginning with the day—

- (a) on which the member returns to work after the absence; or
- (b) on which the member's employment ceases, if the member ceases to be employed without returning to work.

Contributions during child-related leave

13.—l) An active member on child-related leave must pay contributions in accordance with regulations 10 or 11 on any pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pay on account of possible entitlement to statutory pay.

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

(2) If an active member is on child-related leave other than leave mentioned in paragraph (2) and is not entitled to receive pay (including statutory pay) for any period, that member may make contributions during that period in accordance with regulation 10 or 11 as if the member were receiving adjusted pay as defined in paragraph (4).

(3) Adjusted pay is the pay the member was entitled to receive immediately before the unpaid period began (including statutory pay) but—

- (a) not including any amount that reduces actual pay on account of the person's possible entitlement to statutory pay; and
- (b) disregarding any amount the member receives on account of a day's work carried out under regulation 12A of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999⁽⁷⁾ or regulation 21A of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002⁽⁸⁾ that exceeds any maternity, paternity or parental leave pay due for that day.

Contributions during reserve forces service leave

14.—m) An active member on reserve forces service leave must pay contributions in accordance with regulations 10 or 11 that the member was paying immediately before the reserve forces service leave began if (and only if) the reserve forces pay during that period equals or exceeds the pay the member would have received if the former employment had continued.

(1) If an active member on reserve forces services leave is not required to pay contributions under paragraph (1), that member is treated for the purposes of these Regulations as if that member had paid contributions under paragraph (1).

Contributions during trade dispute absence

15.—n) An active member away from work because of a trade dispute may make a contribution in accordance with regulations 10 or 11 in respect of the absence at the rate of 16% of the pay lost during the absence.

(1) A member's lost pay is the difference between the actual pay (if any) received and the pay that the member would have received but for the absence, disregarding any guarantee payments under Part 3 of the Employment Rights (Northern Ireland) Order 1996 must be disregarded.

Contributions during absences with permission

16.—o) An active member away from employment with permission (otherwise than because of illness or injury) for a continuous period of less than 31 days, or on jury service for any period, who receives reduced pay or no pay must make contributions in accordance with regulation 10 or 11 on the pay that member would have received during that period but for the absence.

⁽⁷⁾ S.R. 1999 No. 471; regulation 12A was inserted by S.R. 2006 No. 372; regulation 10.

⁽⁸⁾ S.R. 2002 No. 377; regulation 21A was inserted by S.R. 2006 No. 373; regulation 6.

(1) An active member away from employment with permission (otherwise than because of illness or injury) for a continuous period of less than 30 days, who receives reduced pay or no pay, may make contributions in accordance with regulation 10 or 11 on the pay that member would have received during that period but for the absence, during the period from 30 days after the absence began, up to 36 months.

Additional regular contributions

17.—p) An active member who is paying contributions under regulation 10 (contributions) may enter into an arrangement to pay member-only additional regular contributions (“MARCs) or member and survivor additional regular contributions (MASARCs) in accordance with this regulation.

(1) The arrangements mentioned in paragraph (1)—

- (a) must last for a complete year or number of years with a minimum period of one year;
- (b) must specify the amount of extra contribution to be paid each Scheme year;
- (c) if they are in respect of MARCs, must specify the amount of additional member-only pension to be credited to the active member’s pension account at the end of the Scheme year;
- (d) if they are in respect of MASARCs, must specify the amount of additional member and survivor 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 be the member’s employing authority.

(2) The amount of additional pension that is to be credited to the active member’s pension account shall not exceed £5,000 per year.

(3) The amount of the contributions to be paid in respect of the arrangements under paragraph (1) is to be determined in accordance with actuarial guidance issued by the Government Actuary’s Department—

- (a) the age of the member at the time the arrangements commence;
- (b) the gender of the member; and
- (c) whether the arrangements are in respect of MARCs or MASARCs.

(4) Actuarial guidance issued by the Government Actuary’s Department under paragraph (4) may be revised at any time and if so, from 1st April following such revision, contributions based on the revised actuarial guidance is payable.

(5) An application by an active member to make arrangements under paragraph (1) shall—

- (a) be made in writing to the Committee, and a copy sent to the member’s employing authority if that member is not employed by the Committee;
- (b) state the length of the period, in whole years ending before the member’s normal pension age, over which the member wishes to pay additional contributions,
- (c) state whether the member wishes to make arrangements in respect of MARCs or MASARCs.

(6) If—

- (a) the Committee passes a resolution requiring an member to satisfy it that the member is in reasonable health by producing to it a report by a registered medical practitioner, approved by the Committee, of the results of a medical examination undertaken at the member’s own expense; and
- (b) it is not so satisfied,

it may refuse the member’s application under paragraph (1).

(7) Arrangements under paragraph (1) continue until—

- (a) the period entered into has expired;

- (b) the member terminates them by giving one month's notice in writing to the Committee;
- (c) the member begins to pay reduced contributions under regulation 11 (temporary reduction in contributions);
- (d) the member becomes a deferred member;
- (e) the member becomes a pensioner member; or
- (f) the member dies.

(8) If the 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 (4) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Government Actuary's Department in force at that date.

(9) If additional contributions are paid in accordance with arrangements made under paragraph (1) that member's active member's pension account must be credited with the amount specified in those arrangements as additional member-only pension or member and survivor pension, as the case may be, at the end of the Scheme year in which the contributions are paid.

(10) If the member is granted Tier 1 or Tier 2 benefits or dies before the end of the period of the arrangements made under paragraph (1), that member is to be treated as having paid the contributions required from the date the member dies, or is granted Tier 1 or Tier 2 benefits up to the end of the arrangements.

(11) If the member fails to pay all the additional contributions due under the arrangements made under paragraph (1), and paragraph (11) does not apply to that member, the member's active member pension account must be credited with additional member-only pension or member and survivor pension, as the case may be, of an amount determined by the Committee having regard to the amount of contributions the member paid and after taking actuarial advice.

Additional voluntary contributions

18.—q) An active member may enter into an arrangement to pay additional voluntary contributions or to contribute to a shared cost additional voluntary contribution arrangement.

(1) The arrangement mentioned in paragraph (1) must be a money purchase pension scheme established under a contract between the Committee and a body approved for the purposes under the Finance Act 2004⁽⁹⁾, registered in accordance with that Act and administered in accordance with the Pensions Act 2004⁽¹⁰⁾ and the Pensions (Northern Ireland) Order 2005⁽¹¹⁾.

(2) Where a member pays contributions under paragraph (1) that member is entitled to additional benefits in accordance with one of the methods permissible under the Finance 2004.

(3) Where a member chooses to take some of all of the benefits referred to in paragraph (3) in the form of a lump sum, that sum forms part of the amount referred to in regulation 33(2) (election for lump sum instead of pension).

(4) To enter into an arrangement under paragraph (1), an active member must specify in a written notice given to the Committee and a copy sent to the member's employing authority, if the member is not employed by the Committee the percentage of pensionable pay of the amount the member wishes to contribute.

(5) A member may vary the amount specified, or cease contributing to an arrangement by service of a further written notice given to the member's employing authority.

⁽⁹⁾ 2004 c. 12.

⁽¹⁰⁾ 2004 c. 35.

⁽¹¹⁾ S.I. 2005/255 (N.I. 1).

(6) The amount that an active member may contribute to an arrangement under this regulation may not exceed 50% of the member's pensionable pay.

Rights to return of contributions

19.—r) If a member with less than 2 years' membership ceases to be employed by an employing authority or to be an active member without becoming entitled to a retirement pension, the member is entitled to be repaid the member's contributions from the fund or admission agreement fund.

(1) If repayment of contributions has not been made before the expiry of the period of one year beginning with the date when active membership ceases, the person is entitled to interest on the repayment which should have been made, calculated as provided in paragraph (3), the due date being the date when active membership ceased.

(2) Interest due under paragraph (2) is calculated at one per cent above the base rate on a day to day basis from the due date of payment and compounded with three monthly rests.

(3) A person entitled to repayment under paragraph (1) may claim that entitlement so long as payment is requested during the period of one year beginning with the date the active membership in the employment ceased.

(4) The Committee may deduct any tax or national insurance payable on any repayment under paragraph (1) and where such deduction is made shall secure that the money withheld is used to discharge the tax or national insurance liability or is included in a contributions equivalent premium liability due under section 51 of the Pension Schemes (Northern Ireland) Act 1993.

(5) A person who is entitled to a repayment of contributions under paragraph (1) may waive entitlement for any period and, if the person becomes an active member again before the expiry of that period, the person shall cease to be so entitled (but without prejudice to any entitlement arising later under that paragraph in respect of those contributions).

Exclusion of rights to return of contributions

20.—s) A person is not entitled to a repayment under regulation 19 (rights to return of contributions) if—

- (a) the person becomes a member again within one month and one day;
- (b) the person has left employment because of—
 - (i) an offence of fraudulent character; or
 - (ii) grave misconduct,in connection with the person's employment;
- (c) the person benefits from a transfer payment to another pension fund; or
- (d) the person continues in a concurrent employment in which the person is an active member.

(2) But where paragraph (1)(b) applies the employing authority may direct the payment out of the fund or admission agreement fund to the person or, in a case of an offence of a fraudulent character, to the person or to the person's spouse, civil partner, nominated cohabiting partner or any dependent of the person, of a sum equal to all or part of the person's contributions.

(3) A person is not entitled to a repayment under regulation 19(1), if a transfer value has been credited to the fund or admission agreement fund for the person.

(4) A person ceases to be entitled to such a repayment under regulation 19(1) if the person returns to local government employment before receiving it.

Meaning of “pensionable pay”

21.—t) Subject to regulation 22 (assumed pensionable pay), an employee’s pensionable pay is the total of—

- (a) all the salary, wages, fluctuating emoluments and other payments paid to the employee; and
- (b) any other payment or 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;
- (f) any payment in consideration of loss of future pensionable payments or benefits;
- (g) any payment to buy out an existing term or condition of employment;
- (h) 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;
- (i) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation of other employees; and
- (j) any pay received during any time when the member is not entitled to accrue earned pension under regulation 11(5).

Assumed pensionable pay

22.—u) In the circumstances specified in paragraph (2), the pensionable pay that an active member is treated as receiving for the purposes of these Regulations, other than regulations 10 (contributions) to 16 (contributions during absences with permission) is that member’s assumed pensionable pay calculated in accordance with paragraphs (6) and (7).

(1) The circumstances are that the member—

- (a) is on sick leave on reduced pay;
- (b) is working reduced hours as a consequence of ill-health or infirmity of mind or body and has reduced pay as a consequence of that reduction in working hours;
- (c) is on relevant child-related leave;
- (d) is absent because of a trade dispute and has paid contributions as specified in regulation 15 (contributions during a trade dispute absence); or
- (e) is absent from duty because of being called out or recalled for permanent service in Her Majesty’s armed forces pursuant to a call-out service notice served, or a call-out or recall order made, under the Reserve Forces Act 1996 and has paid contributions if required to do so by regulation m) (contributions during reserve forces service leave).

(2) A member qualifies under paragraph (2)(b) only if an independent registered medical practitioner certifies that the member was in part-time service wholly or partly as a consequence of ill-health or infirmity of mind or body.

(3) Relevant child-related leave for the purposes of paragraph (2)(c) means any period during which the member is exercising the right to take—

- (a) ordinary maternity or adoption leave;
- (b) additional maternity or adoption leave under Article 105 or 107B of the Employment Rights (Northern Ireland) Order 1996; or

- (c) paternity leave; or
 - (d) additional paternity leave.
- (4) Paragraph (2)(c) does not apply in respect of any period of service which qualifies the member for benefits under any other occupational pension scheme in respect of that service.
- (5) Assumed pensionable pay for a Scheme year is the higher of—
- (a) the pensionable pay the member received in the previous scheme year relating to that year, grossed up to an annual figure if the member received pensionable pay for only part of that year; or
 - (b) the pensionable pay the member received in, and relating to, the 12 weeks proceeding the date on which the circumstances specified in paragraph (2) which mean that the member is treated as receiving assumed pensionable pay began, grossed up to an annual figure.
- (6) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment at the end of each Scheme year.

Pension accounts

Establishment of pension accounts

23.—v) The Committee must open and maintain one or more pension accounts for each member of the Scheme.

(1) A separate pension account must be opened in relation to each employment where a member is or was employed in two or more Scheme employments.

(2) A pension account—

- (a) must contain such matters as are required by these Regulations;
- (b) must 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 retirement pension account;
 - (iv) a flexible retirement pension account;
 - (v) a deferred pensioner member’s pension account;
 - (vi) a pension credit member’s pension account;
 - (vii) a survivor member’s pension account,
 but subject to that,

(c) may be kept in any form that the Committee considers appropriate.

(3) The Committee must close a pension account if 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.

Active member pension accounts

24.—w) At the beginning of each Scheme year, an active member’s pension account must specify the opening balance for that year.

(1) At the end of each Scheme year—

- (a) the balance mentioned in paragraph (1) must be adjusted by the revaluation adjustment applicable to that Scheme year;
- (b) the amount of earned pension for the Scheme year must be added to the balance mentioned in sub-paragraph (a);

- (c) the amount of any additional member pension acquired during the Scheme year pursuant to arrangements made under regulation p) (additional regular contributions) must be added to the balance mentioned in sub-paragraph (b); and
- (d) the sum resulting from any pension account adjustment must be added, or subtracted, as appropriate, to the balance mentioned in sub-paragraph (c).

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

(3) Except where regulation 11 (temporary reduction in contributions) applies, the amount of earned pension for the Scheme year is 1/49th of the member's pensionable pay received in that year.

(4) Where regulation 11 (temporary reduction in contributions) applies, the amount of earned pension is 1/98th of the member's pensionable pay received while that regulation applies.

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

- (a) an award of additional pension under regulation 31 (award of additional pension);
- (b) a transfer value payment being made or received;
- (c) a payment in respect of a pension debit being made.

Deferred member's pension account

25.—x) 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 must be closed; and
- (b) a deferred member's pension account must be opened.

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

(3) On the day the 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;
- (b) the amount earned pension from the first day of the member's last active Scheme year until the last day of pensionable service;
- (c) any additional pension acquired during that period pursuant to arrangements made under regulation p) (additional regular contributions), which may be a plus or negative amount, as the case may be; and
- (d) any pension account adjustment applicable during that period.

(5) Other than to correct an error in a deferred member's pension account, the only adjustment that can arise under paragraph (4)(d) is an adjustment as a consequence of a matter specified regulation 24(5) (active member pension accounts) above.

(6) Except where regulation 11 (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.

(7) Where regulation 11 (temporary reduction in contributions) applied to any 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.

(8) The opening balance in the member's account is increased by the index rate adjustment on the last day of each Scheme year.

(9) The balance calculated under paragraph (8) is the opening balance for the following Scheme year.

Retirement pension accounts: active members

26.—y) When an active member becomes entitled to immediate payment of a full retirement pension—

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

(2) The retirement pension account must specify—

- (a) the amount of accrued pension;
- (b) the early payment reduction, or deferred payment enhancement (if any);
- (c) the commutation amount (if any); and
- (d) the amount of pension payable 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 25(4) (deferred member's pension account) if a deferred member's pension account had been opened for that member.

(4) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 (election for lump sum instead of pension) and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

(5) For the purposes of this regulation a full retirement pension means a retirement pension other than a pension payable under regulation 30(3) (normal retirement).

Retirement pension accounts: deferred and pension credit members

27.—z) When a deferred member becomes entitled to immediate payment of a retirement pension—

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

(2) The retirement pension account must specify—

- (a) the amount of accrued pension;
- (b) the early payment reduction, or deferred payment enhancement (if any);
- (c) the commutation amount (if any); and
- (d) the amount of pension payable and the date from which it is to be paid.

(3) A deferred member becomes entitled to immediate payment of retirement pension for the purposes of paragraph (1)—

- (a) on or after that member's 55th birthday; and
- (b) from the date specified in a written notice given by the member to the Committee informing it that the member wishes the retirement pension to be paid.

(4) A notice given under paragraph (3)(b) must specify a date after the date on which the notice is given.

(5) Subject to paragraph (6), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount specified in that member's deferred member's account immediately before it was closed.

(6) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 (election for lump sum instead of pension) and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

(7) This regulation applies to pension credit members who become entitled to immediate payment of a retirement pension as if 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

28.—aa) When an active member is entitled to immediate payment of retirement pension under regulation 30(3) (normal retirement)—

- (a) a flexible retirement pension account must be opened; and
 - (b) the balance in the active member's pension account must be reduced by the amount of accrued pension transferred into the member's flexible retirement pension account.
- (2) The flexible retirement pension account must specify—
- (a) the amount of accrued pension transferred from the active member's pension account;
 - (b) the early payment reduction, or deferred payment enhancement (if any);
 - (c) the commutation amount (if any); and
 - (d) the amount of pension payable and the date from which it is to be paid.

(3) The commutation amount for the purposes of paragraph (2)(c) is the amount the member has elected to receive as a lump sum in accordance with regulation 33 (election for lump sum instead of pension) and the amount of accrued pension specified in paragraph (2)(a) is reduced accordingly.

Pension credit accounts

29.—bb) When a person becomes a beneficiary of a pension sharing order, a pension credit member's account must be opened.

(1) The pension credit account must specify the proportion of the capital value of the benefits in the account of the active member to which the pension sharing order relates that the pension credit member is entitled to receive.

Benefits

Normal retirement

30.—cc) A member who attains normal pension age and ceases to be an employee in local government employment is entitled to the immediate payment of a retirement pension without actuarial reduction.

(1) A member who chooses to defer payment of a retirement pension to a date after that member's normal pension age is entitled to immediate payment of retirement pension from any date after the member ceases to be an employee in local government employment up to the date when that member attains the age of 75, enhanced by the amounts shown as appropriate in actuarial guidance issued by the Government Actuary's Department.

(2) A member who has not attained normal pension age but who has attained the age of 55 or over, who is not an employee in local government employment may choose to receive the immediate payment of retirement pension reduced by the amount shown as appropriate in actuarial guidance issued by the Government Actuary's Department.

(3) A member who has attained the age of 55 or over, who reduces working hours or grade of employment may, with the employing authority's consent, choose to receive the immediate payment of part of the retirement pension to which the member would be entitled if that member were not an employee in local government employment on the date the request is made, adjusted by the amount shown as appropriate in actuarial guidance issued by the Government Actuary's Department.

(4) Where a member who has attained the age of 55 or over is dismissed by reason of redundancy or business efficiency, that member is entitled to immediate payment of retirement pension without reduction.

(5) An employing authority may agree to waive in whole or in part any reduction that would, apart from this paragraph, be required by paragraphs (3) or (4).

(6) In these Regulations “normal pension age” means the pensionable age of a person as specified from time to time in Schedule 2 to the Pensions (Northern Ireland) Order 1995⁽¹²⁾, or if higher, age 65.

Award of additional pension

31.—dd) 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,

additional pension of, in total, not more than £5,000 a year payable from the same date as any pension payable under other provisions of these Regulations, provided that the case of a member falling within sub-paragraph (b), the award is made within 6 months of the date the member’s employment ended.

(2) An employing authority making an award under this regulation must pay a sum into the fund to meet the cost of the additional pension, in accordance with actuarial guidance issued by the Government Actuary’s Department.

Commencement of pensions

32.—ee) 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.

(1) In the case of a member who leaves local government employment and is not entitled to immediate payment retirement pension, 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).

(2) Where a member elects under regulation 30(2) or (3) (normal retirement) to have a pension paid from a date other than the normal pension age, the first period for which the retirement pension is payable begins on the date the member specifies in a written notice to the Committee.

(3) A notice given under paragraph (3) must be given not less than three months before the beginning of the period specified.

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

(5) Where a member is entitled to early payment of pension due to ill-health under regulation 35 (early payment of retirement pension on ill-health grounds: active members), the first period for which the retirement pension is payable is the day after the date on which the member’s employment is terminated.

(6) 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: deferred members), the first period for which the retirement pension is payable begins on the date the member became permanently incapable as determined under that regulation.

⁽¹²⁾ S.I. 1995/3213 (N.I. 22).

(7) The first period for which any survivor pension is payable following the death of a member begins with the day after the date on which the member dies.

Election for lump sum instead of pension

33.—ff) 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.

(1) But the total amount of the member's commuted sum, including any sum received as benefits provided in the form of a lump sum under any other local government pension provision, shall not exceed 25% of the capital value of the member's accrued rights under all local government pension scheme provision.

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

Commutation and small pensions

34.—gg) Any authorised payments within the meaning of section 164 (authorised member payments) of the Finance Act 2004 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 section 166 (lump sum rule) of that Act;
- (b) a trivial commutation lump sum death benefit within the meaning section 168 (lump sum death benefit rule) of that Act;
- (c) a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments for larger pension schemes) of The Registered Pension Schemes (Authorised Payments) Regulations 2009⁽¹³⁾.

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

(3) If a member receives a payment under this regulation, any pension account relating that payment must be closed and the member is entitled to no further benefits in relation to that payment.

Ill-health retirement

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

35.—hh) Where an active member, who has total membership of at least two years, leaves a local government employment on the grounds that—

- (a) of ill-health or infirmity of mind or body rendering the member permanently incapable of discharging efficiently the duties of that employment; and
- (b) the member has a reduced likelihood of being capable of undertaking gainful employment (whether in local government or otherwise) before normal retirement 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 retirement age in accordance with this regulation in the circumstances set out in paragraph (2), or (3), as the case may be.

⁽¹³⁾ S.I. 2009/1171.

(2) If the Committee determine that there is no reasonable prospect of the member being capable of undertaking any gainful employment because of ill-health before normal retirement age, that member is entitled to Tier 1 benefits, calculated in accordance with regulation 38 (calculation of ill-health pension).

(3) If the Committee determine that there is a reasonable prospect of being capable of undertaking any gainful employment before the member's normal retirement age, that member is entitled to Tier 2 benefits, calculated in accordance with regulation 38 (calculation of ill-health pension).

(4) Where the Committee, at the request of the employing authority, is considering whether a person who has ceased to hold a local government employment is entitled to benefit under this regulation, it must refer for decision under regulation 37 (role of independent registered medical practitioner) to an independent registered medical practitioner ("IRMP") qualified in occupational health medicine, appointed by the Committee.

(5) In this regulation—

"gainful employment" means paid employment for not less than 30 hours in each week for a period of not less than 12 months;

"permanently incapable" means that the member will, more likely than not, be incapable until, at the earliest, his 65th birthday;

"qualified in occupational health medicine" means—

- (a) holding a diploma in occupational 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⁽¹⁴⁾; or
- (b) being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.

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

36.—ii) A deferred member who has at least 2 years membership and because of ill-health or infirmity of mind or body, becomes permanently incapable of discharging efficiently the duties of the employment that member was engaged in at the date the member became a deferred member, that member may make a written request to the Committee to receive payment of retirement benefits immediately, whatever the member's age.

(1) Where the Committee, is considering whether a person who has ceased to hold a local government employment is entitled to benefit under this regulation, it shall refer for decision under regulation 37 (role of IRMP) to an independent registered medical practitioner ("IRMP") qualified in occupational health medicine, appointed by the Committee.

Role of independent registered medical practitioner ("IRMP")

37.—jj) The IRMP opinion, when considering the referral under regulations 35 (early payment of retirement pension on ill-health grounds: active members) or 36 (early payment of retirement pension on ill-health grounds: deferred members), shall be expressed as a certificate and shall determine whether or not the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body.

(1) Where in the IRMP's opinion the member suffers from a condition specified in paragraph (1), the IRMP will further determine, whether as a result of that condition the member—

⁽¹⁴⁾ 1983 c. 54.

- (a) has no reasonable prospect of being capable of undertaking any gainful employment before the member's normal retirement age; or
- (b) has a reasonable prospect of being capable of undertaking any gainful employment before the member's normal retirement age.

(2) An IRMP from whom a certificate is obtained under paragraphs (1) and (2) must not have previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested.

(3) The Committee and the IRMP must 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

38.—kk) Tier 1 ill-health benefits are calculated by adjusting the active member's pension account in accordance with paragraph (2).

(1) The active member's pension account is adjusted as follows—

- (a) an amount is added to the opening 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 in the last active Scheme year if that member had been treated as receiving assumed pensionable pay under regulation 22 (assumed pensionable pay) and for each year up to the member's normal retirement age;
- (b) Retirement pension is payable to the member as if the member had reached normal retirement age on the date the member's employment was terminated.

(2) Tier 2 ill-health benefits are calculated by adjusting the active member's pension account in accordance with paragraph (4).

(3) The active member's pension account is adjusted as follows—

- (a) an amount is added to the opening balance in the account for the year in which the member's employment was terminated, equivalent to—
 - (i) the earned pension accrued during that year up to the date the member's employment was terminated; and
 - (ii) a quarter of the amount of earned pension in the member's last active Scheme year, that the member would have accrued if that member had been treated as receiving assumed pensionable pay under regulation 22 (assumed pensionable pay), and for each year up to the member's normal retirement age.
- (b) Retirement pension payable to the member as if the member had reached normal retirement age on the date the member's employment was terminated.

(4) Ill-health benefits payable under regulation 36 (early payment of retirement pension on ill-health grounds: deferred members) are the retirement pension that would be payable to the member on the date the member's employment was terminated.

Survivor benefits

Death grants: active members

39.—ll) If an active member dies before attaining the age of 75, the Committee shall pay a death grant.

(1) 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.

(2) The death grant is 3 times the member's assumed pensionable pay calculated in accordance regulation 22 (assumed pensionable pay).

(3) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of 2 years—

- (a) beginning with the member's death; or
- (b) beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

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

Survivor benefits: partners of active members

40.—mm) 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.

(1) 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.

(2) 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).

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

- (a) the earned pension that the member would have been entitled to draw if—
 - (i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
 - (ii) that earned pension had accrued at a rate of 1/160th of pensionable pay; and
 - (iii) the earned pension that would have accrued under sub-paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
- (b) a sum equivalent to 1/160th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal retirement age; and
- (c) the additional member and survivor pension in the active member's account.

(4) Where an IRMP certifies that the member was, at the date of death, in part-time employment wholly or temporarily as a result of a condition that caused or contributed to the member's death, no account shall be taken of any reduction in accrual of pension as is attributable to that condition.

(5) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(6) The sum calculated under paragraph (6) is the opening balance of the survivor member's pension account for the following Scheme year.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a surviving member's pension account shall be opened for each of them.

Survivor benefits: children of active members

41.—nn) If an active 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.

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

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

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

- (a) the earned pension that the member would have been entitled to draw if—

- (i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
 - (ii) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and
 - (iii) the earned pension that would have accrued under sub-paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
- (b) a sum equivalent to 1/320th of the member's assumed pensionable pay calculated in accordance with regulation 22(6) and (7) (assumed pensionable pay) but ignoring the words "divided by" at the end of regulation 22(6) (assumed pensionable pay) for each year or fraction of a year between the date of the member's death and the member's normal retirement age;
- (c) the additional member and survivor pension in the active member's pension account.
- (4) The amount of pension payable under paragraph (3) where there is more than one such eligible child, is calculated by adding together the amounts in sub-paragraphs (a) to (c), and is payable to those children in equal shares—
- (a) the earned pension that the member would have been entitled to draw if—
 - (i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
 - (ii) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
 - (iii) the earned pension that would have accrued under sub-paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
 - (b) a sum equivalent to 1/160th of the annual pensionable pay the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal retirement age; and
 - (c) the additional member and survivor pension in the active member's account.
- (5) If no pension is payable to a partner of an active member under regulation mm) (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 each eligible child from the day following the member's death.
- (6) The opening balance of a survivor member's pension account opened under paragraph (6) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (8).
- (7) The amount of pension payable under paragraph (7) where there is only one eligible child is calculated by adding together the amounts in paragraphs (a) to (c)—
- (a) the earned pension that the member would have been entitled to draw if—
 - (i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn or actuarial reduction;
 - (ii) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
 - (iii) the earned pension that would have accrued under sub-paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
 - (b) a sum equivalent to 1/240th of the annual pensionable pay the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal retirement age; and
 - (c) the additional member and survivor pension in the active member's account.

(8) The amount of pension payable under paragraph (6) where there is more than one such eligible child, is calculated by adding together the amounts in paragraphs (a) to (c), and is payable to those children in equal shares—

- (a) the earned pension that the member would have been entitled to draw if—
 - (i) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn or actuarial reduction;
 - (ii) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and
 - (iii) the earned pension that would have accrued under sub-paragraph (ii) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
- (b) a sum equivalent to 1/240th of the annual pensionable pay the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal retirement age; and
- (c) the additional member and survivor pension in the active member's account.

(9) Where an IRMP certifies that the member was, at the date of death, in part-time employment wholly or temporarily as a result of a condition that caused or contributed to the member's death, no account shall be taken of any reduction in accrual of pension as is attributable to that condition.

(10) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(11) The sum calculated under paragraph (11) is the opening balance of the survivor member's pension account for the following Scheme year.

Death grants: deferred members

42.—oo) If a deferred member dies before attaining the age of 75, the Committee shall pay a death grant.

(1) 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.

(2) The death grant is—

- (a) the amount the member would have been entitled to receive as a retirement pension annually if the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn or actuarial reduction; and
- (b) any additional member and survivor pension,

multiplied by 5.

(3) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of 2 years—

- (a) beginning with the member's death; or
- (b) beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

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

Survivor benefits: partners of deferred members

43.—pp) 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.

(1) 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.

(2) 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).

(3) 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 earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
- (b) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each Scheme year;
- (d) a sum equivalent to 1/160th of the annual pensionable earnings the member was earning on the date the member died, for each year or fraction of a year between the date of the member's death and the member's normal retirement age; and

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(4) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(5) The sum calculated under paragraph (6) is the opening balance of the survivor member's pension account for the following Scheme year.

(6) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a surviving member's pension account shall be opened for each of them.

Survivor benefits: children of deferred members

44.—qq) 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.

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

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

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

- (a) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
- (b) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and
- (c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each Scheme year;

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(4) The amount of pension payable under paragraph (3) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

- (a) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
- (b) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each Scheme year;

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(5) If no pension is payable to a partner of a deferred member under regulation ii) (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 each eligible child from the day following the member's death.

(6) The opening balance of a survivor member's pension account opened under paragraph (6) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (8).

(7) The amount of pension payable under paragraph (7) where there is only one eligible child is calculated by adding together the earned pension that the member would have been entitled to draw if—

- (a) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
- (b) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
- (c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each Scheme year;

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(8) The amount of pension payable under paragraph (6) where there is more than one such eligible child, is calculated by adding together the earned pension that the member would have been entitled to draw if—

- (a) the earned pension the member would have been able to draw on the date the member died had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction;
- (b) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and
- (c) the earned pension that would have accrued under sub-paragraph (b) had been revalued by the revaluation adjustment rate at the end of each Scheme year;

any additional member and survivor pension that the deferred member had accrued were added to that figure.

(9) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(10) The sum calculated under paragraph (10) is the opening balance of the survivor member's pension account for the following Scheme year.

Death grants: pensioner members

45.—rr) If a pensioner member dies before attaining the age of 75, the Committee shall pay a death grant.

(1) 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.

(2) The death grant is 10 times the annual amount the member was receiving as retirement pension, at the date of death, ignoring any abatement applied because the member had entered new employment but the amount so calculated is reduced by the amounts of any retirement pension paid to the member, or that would have been paid had the member's pension not at any time been abated because of entry of the member into new employment.

(3) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of 2 years—

- (a) beginning with the member's death; or
- (b) beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

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

Survivor benefits: partners of pensioner members

46.—ss) If a pensioner 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.

(1) 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.

(2) 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).

(3) 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's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each Scheme year until the pension started to be paid; and
- (c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each Scheme year until the member died.

(4) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(5) The sum calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year.

(6) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1) and a surviving member's pension account shall be opened for each of them.

Survivor benefits: children of pensioner members

47.—tt) If a pensioner 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.

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

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

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

- (a) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and

- (b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each Scheme year until the pension started in payment; and
- (c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each Scheme year until the member died.

(4) The amount of pension payable under paragraph (3) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the earned pension that the member would have been entitled to draw if—

- (a) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each Scheme year until the pension started in payment; and
- (c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each Scheme year until the member died.

(5) If no pension is payable to a partner of a pensioner member under regulation ss) (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 each eligible child from the day following the member's death.

(6) The opening balance of a survivor member's pension account opened under paragraph (6) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (8).

(7) The amount of pension payable under paragraph (7) where there is only one eligible child is calculated by adding together the earned pension that the member would have been entitled to draw if—

- (a) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
- (b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each Scheme year until the pension started in payment; and
- (c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each Scheme year until the member died.

(8) The amount of pension payable under paragraph (6) where there is more than one such eligible child, is calculated by adding together the earned 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; and
- (b) the earned pension that would have accrued under sub-paragraph (a) had been revalued by the revaluation adjustment rate at the end of each Scheme year until the pension started in payment; and
- (c) the pension that would have been paid if sub-paragraphs (a) and (b) applied had been increased by the index rate adjustment at the end of each Scheme year until the member died.

(9) The opening balance of the survivor member's pension account is increased by the index rate adjustment on the last day of each Scheme year.

(10) The sum calculated under paragraph (10) is the opening balance of the survivor member's pension account for the following Scheme year.

PART 2

Administration

Interest on late payment of certain benefits

48.—uu) Where all or part of a pension or lump sum payment due under these Regulations is not paid within the relevant period after the due date, the Committee must pay the interest on the unpaid amount to the person to whom it is payable, calculated from the due date as provided in paragraph (4).

(1) 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; and
- (c) otherwise, one month.

(2) 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 ff) (election for a 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 2 years after the date of death, the date of the notification; and
- (d) in the case of a payment of a lump sum under regulation 34 (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 Finance Act 2004).

(3) Interest payable under this regulation is calculated at 1% above the base rate on a day to day basis from the due date to the date of payment and compounded with 3-monthly rests.

Payments due in respect of deceased persons

49.—vv) 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) ("the amount due") 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 and applying in relation to that person's death.

(1) The Committee may pay the whole or part of the amount due from the fund or admission agreement fund to—

- (a) the person's personal representatives; or
- (b) any person or persons appearing to the Committee to be beneficially entitled to the estate, without production of probate or letters administration of the person's estate.

(2) Such a payment discharges the Committee from accounting for the amount paid.

Payments for persons incapable of managing their own affairs

50.—ww) Where it appears to the Committee that a person other than an eligible child is entitled to the payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing his or her 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 as the Committee may direct; 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 the Committee may determine, for the benefit of the person entitled or any beneficiaries of the person entitled.

(2) In this regulation, “eligible child” shall be construed in accordance with Schedule 1 (interpretation).

Non-assignability

51.—xx) Every benefit with which a person is entitled under the Scheme is payable to or in trust for that person.

(1) No such benefit is assignable or chargeable with that person’s or any other person’s debts or liabilities.

(2) 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 under Article 283 or Article 283A of the Insolvency (Northern Ireland) Order 1989.

Pension debits

52.—yy) The Committee shall have regard to actuarial guidance issued by the Government Actuary’s Department as to the reduction of benefits payable in consequence of a pension debit created under Article 26(1)(a) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 or section 29(1)(a) of the Welfare Reform and Pensions Act 1999.

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

No double entitlement

53.—zz) 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 only 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 notify the member in writing of the provision under which benefits are to be paid.

(2) A member’s choice must be by notice in writing given to the Committee before the expiry of 3 months beginning with the day on which the member becomes entitled to choose under which provision the pension or retirement grant is to be paid.

(3) Paragraph (1) does not affect the member’s rights under the Pension Schemes Act (Northern Ireland) 1993.

Limit on total amount of benefits payable

54.—aaa) No person is entitled under any provision to receive benefits the capital value of which exceed that person’s lifetime allowance, except in accordance with actuarial guidance issued by the Government Actuary’s Department and any benefits to which a person is entitled to are capped accordingly.

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

(2) The capital value of a person’s benefits shall be calculated in accordance with actuarial guidance issued by the Government Actuary’s Department.

(3) The Committee is responsible for deducting from any payment of benefits under the Scheme any tax to which they may become chargeable under the Finance Act 2004.

Sealed with the Official Seal of the *** on ***

Name

A senior officer of the Department of the Environment

SCHEDULES

SCHEDULE 1

Regulation 2

Interpretation

“the 2009 Scheme” means

“absence from work with permission” means

“active member” has the same meaning as in Article 121(1) of the Pensions Order⁽¹⁵⁾;

“actuarial guidance issued by the Government Actuary’s Department” means

“additional maternity or adoption leave” means

“additional paternity leave” means

“additional pension” means

“additional voluntary contributions” means

“admission agreement” means, in relation to an admission body, an agreement that all, or any designated class, of the body’s employees may be members;

“admission body” means a body mentioned in regulation 3(b) (active membership) and paragraph 1 of Schedule 2 (matters to be included in admission agreements with admission bodies);

“amount of accrued pension” means

“amount of pension payable” means

“annual pensionable pay” means

“assumed pensionable pay” means

“auto-enrolment date” means

“auto-re-enrolment date” means

“base rate” means

⁽¹⁵⁾ S.I. 1995/3213 (N.I. 22).

“benefit crystallisation event” means

“capital value of accrued benefits” means

“child-related leave” means

“commutation amount” means

“contribution rate” means

“date of commutation” means

“death grant” means

“deferred member” means

“deferred payment enhancement” means

“dependent” means

“district council” means a district council established under the Local Government Act (Northern Ireland) 1972⁽¹⁶⁾;

“early payment of retirement pension” means

“early payment reduction” means

“earned pension” means

“eligible child” means

“employing authority’s consent” includes

“full retirement pension” means

“gainful employment” means

“ill-health or infirmity of mind or body” means

“immediate payment of retirement pension” means

“incapable of discharging efficiently the duties of that employment” means

“index rate adjustment” means

“interest” means

“IRMP” means

“lifetime allowance” means

“local government elections” means

“local government employment” means

“membership” means

“money purchase pension scheme” means

⁽¹⁶⁾ 1972 c. 9.

- “normal retirement age” means
- “nominated co-habiting partner” means
- “occupational pension scheme” means
- “opening balance” means
- “ordinary adoption leave” means
- “ordinary maternity leave” means
- “payment period” means
- “parental leave” means
- “parental leave pay” means
- “pensionable pay” means
- “pension account” means
- “pension account adjustment” means
- “pension debit” means
- “pension credit” means
- “pension credit member” means
- “pensioner member” means
- “pensions board” means
- “pension sharing order” means
- “permanently incapable” means
- “provides a public service” means
- “public service pension scheme” means
- “qualifying service” means
- “reduced likelihood of being capable of undertaking gainful employment” means
- “reserve forces service leave” means
- “retirement pension” means
- “revaluation adjustment” means
- “the Scheme” means
- “scheme employer” means—
- (a) before the date of the first coming into office of the members of district councils, the council of a county, a county or other borough, or an urban or rural district, a new town commission, the Belfast City and District Water Commissioners or the Northern Ireland Local Government Officers’ Superannuation Committee;
 - (b) on or after that date but before 1st October 1973, any such authority as mentioned in subparagraph (a) or a district council;

- (c) on or after 1st October 1973, a district council, a new town commission, or the Northern Ireland Local Government Officers' Superannuation Committee; or
- (d) the Northern Ireland Housing Executive.

“Scheme manager” means

“Scheme year” means

“sick leave” means

“statutory pay” means

“survivor member” means

“Tier 1 benefits” means

“Tier 2 benefits” means

“trade dispute” means

“transfer value payment” means

SCHEDULE 2

Regulation 3

MATTERS TO BE INCLUDED IN ADMISSION AGREEMENTS WITH ADMISSION BODIES

1. The following bodies are admission bodies—

- (a) a body which provides a public service in the United Kingdom which operates otherwise than for the purposes of gain and 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);
- (b) a body, to the funds of which the 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⁽¹⁷⁾; and
- (g) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997⁽¹⁸⁾.

⁽¹⁷⁾ 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).

⁽¹⁸⁾ S.I. 1997/1772 (N.I. 15).

- (h) a body that is providing or will provide a service or assets in connection with the exercise of a function of an employing authority as a result of a transfer of the service or assets by means of a contract or other arrangement;
- (i) a body which provides a public service in the United Kingdom and is approved by the Department for the purposes of admission to the Scheme.

2. An approval under paragraph 1(i) 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.

3. The employing authority, if it is not also the Committee, must be a party to the admission agreement with a body falling within the description in paragraph 1(d).

4. Where, at the date that an admission agreement is made with a body mentioned in paragraph 1(b), 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 must be a term of the 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 these Regulations.

5. If the admission body is exercising the functions of the employing authority in connection with more than one contract or other arrangement under paragraph 1(h), the Committee and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.

6. An admission agreement with an admission body shall require that in the case of a body under—

- (a) regulation X, to the satisfaction of the Committee;
- (b) regulation X, to the satisfaction of the employing authority; or
- (c) regulation X, 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.

7. Subject to paragraph (5), 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 4 of the Financial Services and Markets Act 2000⁽¹⁹⁾ 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⁽²⁰⁾, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule⁽²¹⁾) 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.

⁽¹⁹⁾ 2000 c. 8.

⁽²⁰⁾ 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.

⁽²¹⁾ 2000 c. 8; there are amendments to paragraphs 12 and 15 of Schedule 3 which are not relevant to these Regulations.

8. Where, for any reason it is not possible for an admission body to enter into and indemnity or bond, the admission agreement shall provide that the admission body secures a guarantee to pay all liabilities under these Regulations or the Benefits Regulations, in a form satisfactory to the Committee from—

- (a) a person or persons who funds the admission body in whole or in part; or
- (b) a person who—
 - (i) owns; or
 - (ii) controls the exercise of the functions, of the admission body.

9. An admission agreement must include—

- (a) provision for it to terminate if the admission body ceases to be such a body;
- (b) a requirement that the admission body notify the Committee of any matter that may affect its participation in the Scheme;
- (c) a requirement that the admission body notify the Committee of any actual or proposed change in its status, including take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation and a material change to the body's business or constitution;
- (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 material 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 fund within a reasonable period after receipt of a notice from the Committee requiring it to do so.

10. An admission agreement must include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered scheme.

11. When the Committee makes an admission agreement, it must promptly inform the Department of—

- (a) the date the agreement takes effect;
- (b) that admission body's name; and
- (c) the name of the employing authority that is party to the agreement.

12. Where an admission body is such a body by virtue of paragraph 1(h), an admission agreement must 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 sub-paragraph may be members of the Scheme;
- (b) details of the contract, other arrangement or direction by which the body met the requirements of that sub-paragraph;
- (c) a provision whereby the employing authority referred to in that sub-paragraph may set off against any payments due to the body, an amount equal to any overdue employer and employee contributions and other payments (including interest) due from the body under these Regulations;
- (d) a provision requiring the admission body to keep under assessment the level of risk arising as a result of the matters mentioned in paragraph (6);
- (e) a provision requiring copies of notifications due to the Committee under paragraph 9(b) or (c) to be given to the employing authority referred to in that sub-paragraph; and
- (f) a provision requiring the employing authority referred to in that sub-paragraph to make a copy of the admission agreement available for public inspection at its offices.

13. In this Schedule—

- (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 of 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 of the promotion of the development of tourist traffic.