

**Local Government Policy Division**

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Your reference:  
Our reference: DO1-11-1696  
13 October 2011

Dear Consultee

**DRAFT LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT)  
REGULATIONS (NORTHERN IRELAND) 2012**

I enclose for consultation, a copy of the draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2012, (the draft Regulations) which the Department of the Environment proposes to make under the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972. Comments should be received by **13 January 2012**.

The Local Government Pension Scheme in Northern Ireland is governed by the following principal regulations:-

- Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (the Benefits Regulations);
- Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (the Administration Regulations); and
- Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009.

The proposed draft Regulations contain amendments to the Benefits Regulations and the Administration Regulations. Further details on the proposed amendments are given below.

## **Main Proposed Amendments to the Benefits Regulations**

### **1. Definition of Pensionable Pay**

Regulation 4 (meaning of “pensionable pay”) will be amended to clarify that any sum representing the arrears of pay for the purposes of achieving equal pay is included but any award of compensation is excluded from the definition of pensionable pay.

### **2. Calculation of Final Pay**

Regulation 10 (final pay: reductions) allows a member whose pensionable pay has been reduced or restricted, to choose to have his or her final pay calculated by dividing by three any three consecutive years within a period of 10 years before the member’s last day as an active member. Paragraph (1) will be amended to clarify that the member must give notice in writing to the Northern Ireland Local Government Officers’ Superannuation Committee (“the Committee”) at least a month before he or she ceases membership.

It is proposed to add a new paragraph (1A) which would give the Committee the discretion to give notice on behalf of a deceased member who meets the qualifying conditions, to have his or her final pay calculated in accordance with this regulation, whether or not the period of notice has expired.

A further amendment would also be made to paragraph (2) to clarify that this regulation does not apply to a member who has opted to take flexible retirement under regulation 18 of the Benefit Regulations.

### **3. Flexible Retirement**

A new paragraph (3A) will be added to regulation 18 (flexible retirement) to make it clear that, where a member decides to take flexible retirement after age 65, the benefits paid will be actuarially enhanced in accordance with guidance issued by the Government Actuary.

#### 4. Ill-Health Provisions

It is proposed to make a number of amendments to the provisions dealing with ill-health retirement arrangements.

- The word “obtaining” in regulation 20 (early leavers: ill-health) would be replaced with the words “being capable of undertaking”. This is intended to reflect better the original policy intention which is that the criterion for an ill-health retirement is whether the medical condition would prevent the member undertaking any gainful employment and this is what the independent registered medical practitioner would assess. Gainful employment is defined in regulation 20 as meaning paid employment of not less than 30 hours in each week for a period of not less than 12 months. The proposed amendment does not change the policy for the ill-health retirement arrangements.
  
- Regulation 20(7) will be amended to clarify that the transitional protection for a person who was a member before 1<sup>st</sup> April 2009 and was aged 45 (or more) before that date only applies to members with continuous membership from before 1st April 2009.
  
- A drafting error will be corrected in regulation 20(6) by replacing the words, “wholly or partly in part-time service”, with, “in part-time service wholly or partly”.
  
- Regulations 23 (death grants: active members) and 24 (survivor benefits: active members) will be amended so that, where a member was in part-time employment as a result of a medical condition and that condition subsequently leads to the death of the member, the reduction in pay will not be taken into account in the calculation of each of these benefits. This amendment ensures equal treatment for:
  - an active member who is in part-time employment as a consequence of a condition that results in the early release of retirement benefits on the grounds of ill-health; and
  - an active member who has reduced his or her hours as a result of an illness but dies in service.

- The wording of regulation 31 (early payment of pension: ill-health), which deals with the ill-health arrangements for deferred members, will also be amended. The word ‘immediate’ will be deleted in regulation 31(1) because it could be misleading: benefits are paid only when the Committee has made a determination in the light of a certificate from an independent registered medical practitioner. The word “obtaining” will be replaced with “being capable of undertaking” as is proposed for regulation 20.
- A drafting error in paragraph 6 of the Schedule (councillor members), which sets out the ill-health arrangements for councillor members, will be corrected by replacing the wording “the duties of that office” with “any gainful employment” in the version of regulation 20(2) which applies to councillor members.

5. Commutation of Pension

Regulation 39 (commutation: small pensions) will be amended to include a flexibility permitted under section 164(1)(f) of the Finance Act 2004 which enables the commutation of benefits not in excess of £2,000 in one scheme. This will bring the Benefits Regulations into line with the Registered Pension Schemes (Authorised Payments) Regulations 2009.

**Other Proposed Amendments to the Benefits Regulations**

6. Regulation 3 (contributions by active members)

In paragraph 9 the word “after” will be replaced by “on or after” to clarify that contributions cannot be made on the day before the member’s 75<sup>th</sup> birthday.

7. Regulation 6 (periods of membership)

A cross reference to regulation 11 (periods of membership) of the Administration Regulations will be added.

8. Regulation 7 (calculation of periods of membership)

The words, “Except for the purposes of regulation 5(1)(a), membership”, will be substituted for the word “Membership” at the start of paragraph 3 . This amendment is to clarify that a different basis is used when calculating the minimum period of membership for a part-time member’s entitlement to benefits under regulation 5 (benefits). To be entitled to benefits the member must have been a member for at least three calendar months.

9. Regulation 8 (final pay: general)

A drafting error in paragraph (3) will be corrected by replacing “In” with “in”.

10. Regulation 17 (retirement after normal retirement age)

It is proposed to amend this regulation to make it clear that a member who joins the pension scheme after age 65 is entitled to a pension.

11. Regulation 29 (calculation on leaving early)

A drafting error in paragraph (5) will be corrected by the deletion of the words “or any part of it”.

## **Main Proposed Amendments to the Administration Regulations**

12. Classroom Assistants

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 164) introduced amendments to protect certain periods of membership accrued by classroom assistants. The collective agreement reached on 30 November 2007 by the employer and employee negotiating machinery for the Education and Library Boards (the Joint Negotiating Council) changed the conditions of service, including the whole-time conditioned hours, for classroom assistants employed by the Education and Library Boards. This included a buy out of historic terms and conditions. Pension rights on the basis of a whole-time equivalent of 32.5 hours per week during the period from 1 January 1995 to 30 November 2007 (inclusive) were protected. Pension rights thereafter are accrued on the basis of a whole-time equivalent of 36 hours per week.

The Department of Education subsequently (6th February 2009) made resources available to voluntary grammar and grant maintained integrated schools to implement conditions of service, including pay rates for classroom assistants employed in those schools in line with collective agreement by the Joint Negotiating Council. In the case of these classroom assistants the protection period is from 1 January 1995 to 6 February 2009.

Two new paragraphs, (6) and (7), will be added to regulation 11 (periods of membership) to ensure the continued protection of the pension of classroom assistants covered by the collective agreement of the Joint Negotiating Council or the Department of Education's subsequent decision to implement similar conditions of service for those employed in voluntary grammar and grant maintained integrated schools. The amendment would apply where a member:-

- decides to aggregate a period or periods of protected membership with another period of membership; or
- has concurrent employments and is a member of the pension scheme in both employments, if one employment ends and the member then decides to join the period or periods of protected membership from the terminated employment with the period of membership in the current employment.

An amendment will also be made to correct a drafting error in regulation 11(5) by replacing "regulation 6(1)(a)" with "regulation 6(a)".

### 13. Concurrent Employments

Regulation 13 (concurrent employments) will be amended to enable a member who was a concurrent member but who ceases to be an active member in one employment ("the first employment") to aggregate that membership provided that:

- the person had at least three months' membership in the first employment; or

- the membership otherwise entitled the person to benefits as set out in regulation 5 of Benefits Regulations.

14. Use of Accumulated Value of Additional Voluntary Contributions (AVCs) and Shared Cost Additional Voluntary Contributions (SCAVCs)

Regulation 22 (use of accumulated value of additional voluntary contributions and shared cost additional voluntary contributions) will be amended to include two new paragraphs, (9) and (10). The first of these will give the Committee the discretion to pay the accumulated value to a member's personal representatives in the event of his or her death. This discretion was included in the Local Government Pension Scheme Regulations (Northern Ireland) 2002 but was not carried forward to the Administration Regulations.

The second new paragraph will require the Committee to make the payment of the total accumulated value within two years of the member's death, to his or her personal representatives.

Amendments will also be made to widen the permissible use of the accumulated value of AVCs or SCAVCs by a person who stops being an active member but who remains in employment.

A drafting error in paragraph (1)(a)(ii) of this regulation will be corrected by removing the reference to regulation 31 (early payment of pension: ill-health).

15. Payments for Persons Incapable of Managing their Affairs

A new regulation will be added to cover instances where pensioners and other beneficiaries of the pension scheme are no longer capable of managing their own affairs. The new regulation will enable the Committee to pay the benefits to suitable persons who would then be able to make expenditure on behalf of the beneficiary. The new regulation also gives the Committee the power to make the expenditure itself where necessary. The Committee will establish procedures to ensure that there is medical certification of the individual's

incapacity and checks are carried out to verify that the person seeking to act on behalf of the beneficiary is an appropriate person.

## **Retrospection**

16. It is proposed that some amendments will have retrospective effect. Those which will have effect from 1<sup>st</sup> April 2009, when the Benefits and Administration Regulations came into operation, are listed below.

### Amendments to Benefits Regulations

- regulation 3 which amends regulation 3 (9) (contributions payable by active members);
- regulation 4 which amends regulation 4 (2)(f) and 4(2)(g) (meaning of “pensionable pay”);
- regulation 5 which amends regulation 6 (periods of membership);
- regulation 6 which amends regulation 7(3) (calculation of periods of membership);
- regulation 7 which corrects a drafting error in regulation 8(3) (final pay: general);
- regulation 8 which amends regulation 10 (final pay reductions);
- regulation 9 which amends regulation 17(1) (retirement after normal retirement age);
- regulation 10 which amends regulation 18 (flexible retirement); and
- regulation 14 which amends regulation 29 (calculation on leaving early).

### Amendment to Administration Regulations:

- regulation 19 which amends regulation 11 (periods of membership).
17. It is proposed that one other regulation will have retrospective effect, regulation 17 which amends the Schedule to the Benefits Regulations. This amendment will have effect from the 9<sup>th</sup> May 2011 which was the date the Local Government Pension Scheme (Councillors) (Amendment) Regulations (Northern Ireland) 2011 came into operation.

## **Equality**

18. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the draft Regulations will not lead to discriminatory or negative differential impact. This letter, the draft Regulations and the equality screening are available to view at [http://www.doeni.gov.uk/index/local\\_government/local\\_government\\_consultations.htm](http://www.doeni.gov.uk/index/local_government/local_government_consultations.htm). Copies of the documents in different formats are available and may be requested using the above contact details.

## **Regulatory Impact**

19. A regulatory impact assessment screening has also been carried out. The Department considers that the draft regulations do not impose any additional costs or result in savings for businesses, charities, social economy enterprises or the voluntary sector.

## **Freedom of Information**

20. The Department will 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 attached Annex on the confidentiality of consultations which will give you guidance on the legal position about any information given by you in response to this consultation.

## Consultation

21. Comments should be sent by **13 January 2012** to Marie Cochrane at the address below or by e-mail to [marie.cochrane@doeni.gov.uk](mailto:marie.cochrane@doeni.gov.uk).
  
22. If you have any queries in relation to the proposals you should contact:  
William Dobbin  
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Yours sincerely,



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**Encl.**

## **Addressees**

All the Members of the Northern Ireland Legislative Assembly

All Northern Ireland political parties, MPs and Members of the House of Lords

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

## The Freedom of Information Act 2000 – Confidentiality of Consultations

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.

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.

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

**2012 No.**

**LOCAL GOVERNMENT**

**Draft Local Government Pension Scheme (Amendment) Regulations  
(Northern Ireland) 2012**

*Made* - - - - - \*\*\*

*Coming into operation* - - - - - \*\*\*

The Department of the Environment makes these Regulations in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(1) and now vested in it(2).

In accordance with Article 9 of that Order the Department has consulted with the Northern Ireland Local Government Association, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to it to be appropriate.

**Citation, commencement and retrospectio**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2012 and except as provided for by paragraph (2), shall come into operation on [21 days after the Regulations are made].

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

- (a) regulations 4 to 10, 14 and 21 from 1st April 2009; and
- (b) regulation 17 from 9th May 2011.

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

2.—(1) The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(3) shall be amended in accordance with regulations 3 to 17.

3. In regulation 3(9) (contributions payable by active members) for “after” substitute “on and after”.

4. For regulation 4(2)(f) and 4(2)(g) (meaning of “pensionable pay”) substitute—

- “(f) any payment to buy out an existing term or condition of employment;
- (g) 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 a provision; or
- (h) any award of compensation (excluding any sum representing arrears of pay) for the purposes of achieving equal pay in relation to other employees.”.

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(1) S.I. 1972/1073 (N.I. 10); Art. 9 was amended by Art. 34 S.I. 2005/1968 (N.I. 18).

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

(3) S.R. 2009 No. 32; the relevant amending Regulations are S.R. 2010 No. 164; S.R. 2010 No. 410 and S.R. 2011 No. 117.

5. In regulation 6 (periods of membership) for “These are” substitute “Subject to regulation 11 (periods of membership) of the Administration Regulations these are”.

6. In regulation 7(3) (calculation of length of periods of membership) for “Membership” substitute “Except for the purposes of regulation 5(1)(a), membership”.

7. In regulation 8(3) (final pay: general) for “In” substitute “in”.

8. In regulation 10 (final pay: reductions)—

(a) in paragraph (1) for “(3).” substitute “(3) by giving notice in writing to the Committee no later than one month prior to the date on which he ceases active membership or within such period as the Committee may determine.”;

(b) after paragraph (1) insert—

“(1A) Where a member to whom paragraph (1) applies dies without giving notice, the Committee may give notice on his behalf (whether or not the period within which he could have given notice has expired).”; and

(c) in paragraph (2) for sub-paragraphs (a) and (b) substitute—

“(a) commences before the beginning of the period of 10 years ending with his last day as a active member;

(b) immediately follows a period in which he occupies a post on a temporary basis; or

(c) is because he chooses to reduce the hours he works or the grade in which he is employed for the purposes of regulation 18 (flexible retirement).”.

9. In regulation 17(1) (retirement after normal retirement age) after “local government employment” insert “or who joins the Scheme”.

10. In regulation 18 (flexible retirement)—

(a) after paragraph 3 insert—

“(3A) If the payment of benefits referred to in paragraph (1) takes effect after the member’s 65 birthday, the benefits shall be enhanced in accordance with guidance issued by the Government Actuary.”; and

(b) in paragraph (7) after “calculation of his benefits under” insert “this regulation.”.

11. In regulation 20 (early leavers: ill-health)—

(a) in paragraphs (1)(b), (3), (4)(a) and (4)(b) for “obtaining” substitute “being capable of undertaking”;

(b) in paragraph (2) for “his obtaining” substitute “him being capable of undertaking”;

(c) in paragraph (6) for “wholly or partly in part-time service” substitute “in part-time service wholly or partly”; and

(d) for paragraph (7) substitute—

“(7) But if, in the case of a person who is a member before 1st April 2009 and who—

(a) has attained the age of 45 before that date;

(b) has had continuous membership; and

(c) has not received any benefits in respect of that membership,

the period to be added under paragraph (2)(b) or (3)(b) is less than the period that would have been added had regulation 30 (amounts of ill-health pension and grant) of the 2002 Regulations applied, then his benefits are increased by adding the latter period.”;

12. In regulation 23 (death grants: active members)—

(a) in paragraph (4) for “But in calculating death grant” substitute “But, subject to paragraph (4A), in calculating death grant”; and

(b) after paragraph (4) insert—

“(4A) Where, in the opinion of the independent registered medical practitioner the member was, at the date of death, in part-time service wholly or partly as a result of the condition that caused or contributed to the member’s death, no account shall be taken of any reduction in pay due to such reduction in service as is attributable to that condition.”.

**13.** For regulation 24(2) (survivor benefits: active members) substitute—

“(2) Subject to the provisions listed in paragraph (2A), the pension is calculated by multiplying the member’s total membership, augmented as if regulation 20(2) applied, by his final pay and divided by 160.

(2A) The provisions mentioned in paragraph (2) are—

- (a) regulations 14 (election to pay additional regular contributions (ARCs)), 14A (election to pay additional contributions: survivor benefits) and 15 (elections to pay additional voluntary contributions (AVCs));
- (b) regulations 19 (payment of additional regular contributions), 20 (discontinuance of ARCs), 21 (additional voluntary contributions and shared cost additional voluntary contributions) and 22 (use of accumulated value of AVCs and SCAVCs) of the Administration Regulations; and
- (c) regulation 82 (pension debit member) of the Administration Regulations.

(2B) Where in the opinion of the independent registered medical practitioner the member was at the date of death, in part-time service wholly or partly as a result of the condition that caused or contributed to his death, no account shall be taken of any reduction in membership due to such reduction in service as is attributable to that condition.”.

**14.** In regulation 29(5) (calculation on leaving early), delete “, or any part of it.”.

**15.** In regulation 31 (early payment of pension: ill-health)—

- (a) in paragraph (1) for “benefits immediately,” substitute “benefits,”; and
- (b) in paragraph (2) for “obtaining” substitute “being capable of undertaking any”.

**16.** In regulation 39(1) (commutation: small pensions) for “a trivial commutation lump sum within the meaning of section” substitute “a trivial commutation lump sum within the meaning of sections 164(1)(f) or”.

**17.** In the Schedule (councillor members), in paragraph 6, in regulation 20(2) for “the duties of that office” substitute “any gainful employment”.

**Amendments to the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009**

**18.—**(1) The Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009(4) shall be amended in accordance with regulations 19 to 22.

**19.** In regulation 11 (periods of membership)—

- (a) in paragraph (5) for “regulation 6(1)(a)” substitute “regulation 6(a)”;
- (b) after paragraph (5) insert—

“(6) A period of membership as a—

- (a) qualifying member between 1st January 1995 and 30th November 2007; and
- (b) newly qualifying member between 1st January 1995 and 6th February 2009,

shall be calculated for the purposes of these Regulations and the Benefits Regulations, in accordance with regulations 10 (length of period of membership: calculation of benefit) and 19 (calculations) of the 2002 Regulations(5).

(7) In this regulation—

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(4) S.R. 2009 No. 32; the relevant amending Regulations are..

(5) S.R. 2002 No. 352; the relevant amending Regulations are S.R. 2010 No. 164.

“qualifying member” means a member who is party to the Agreement;

“newly qualifying member” means a member who is employed as a classroom assistant by a voluntary grammar school or a grant maintained integrated school within the meaning of the Education Reform (Northern Ireland) Order 1989; and

“the Agreement” means the Collective Agreement for the Joint Negotiating Council of the Education and Library Boards dated 30th November 2007.”.

**20.** For regulation 13(1) (concurrent employments) substitute—

“**13.**—(1) Where a person ceases to be an active member in one employment (“the first employment”)—

- (a) in respect of which he has at least three months’ total membership; or
- (b) in respect of which he has an entitlement to benefits under regulation 5 (benefits) of the Benefits Regulations; and

continues as an active member in another employment which was held concurrently with the first employment, the person may elect to have the former membership in respect of the first employment aggregated with membership in that other employment.”.

**21.** In regulation 22 (use of accumulated value of AVCs and SCAVCs)—

- (a) in paragraph (1)(a)(ii) for “19 (early leavers: inefficiency and redundancy), 30 (choice of early payment of pension), or 31 (early payment of pension: ill-health) of the Benefits Regulations” substitute “19 (early leavers: inefficiency and redundancy) or 30 (choice of early payment of pension) of the Benefits Regulations”;

- (b) in paragraph (2), after “paragraph (1)(a)(i)” insert “or (b)”;

- (c) for paragraph (7) substitute—

“(7) In the case of a person mentioned in paragraph (1)(b) the employing authority must, as soon as possible, inform the Committee that the person has stopped being an active member.”;

- (d) in paragraph (8), delete “or with paragraph (7)(b)”;

- (e) after paragraph (8) insert—

“(9) In the event that a member dies before the policy is entered into, the accumulated value is payable to his personal representatives.

(10) If the Committee has not made payments under paragraph (9) equalling in aggregate the accumulated value before the expiry of 2 years—

- (a) beginning with his 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.”.

**22.** After regulation 47 (payments due in respect of deceased persons), insert—

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

**47A.**—(1) 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 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 his beneficiaries.

(2) In this regulation, “eligible child” shall be construed in accordance with regulation 26 (meaning of eligible child) of the Benefits Regulations.”.

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

*Name*  
A senior officer of the Department of the Environment

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations contain amendments to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (the Benefits Regulations) and the Local Government Pension Scheme (Administration) Regulations (NI) 2009 (the Administration Regulations) which came into operation on 1st April 2009. The Benefits Regulations and Administration Regulations form part of the regulatory framework governing the Local Government Pension Scheme in Northern Ireland (the Scheme).

The Northern Ireland Local Government Officers' Superannuation Committee (the Committee) administers the Scheme.

Article 14 of the Superannuation Order (NI) 1972 confers express powers to make regulations retrospective in effect. Some of these Regulations are retrospective.

Regulation 2 introduces the amendments set out in regulations 3 to 17 relating to the Benefits Regulations.

Regulation 3 precludes the possibility of members making contributions from the day before their 75th birthday.

Regulation 4 amends the meaning of "pensionable pay" by excluding any award of compensation for the purposes of achieving equal pay in relation to other employees, whilst ensuring that any arrears of pay remain within the definition of "pensionable pay".

Regulation 5 inserts a cross reference into regulation 6 (periods of membership) of the Benefits Regulations to regulation 11 of the Administration Regulations.

Regulation 6 amends regulation 7 (calculation of periods of membership) to ensure that when determining whether a part-time member has total membership of at least three months, entitling him to benefit, the calendar period should be used and not pro-rata time.

Regulation 7 makes a minor amendment to regulation 8 (final pay: general).

Regulation 8 amends regulation 10 (final pay: reductions) to give the Committee the discretion to give notice on behalf of a deceased member who meets the qualifying conditions, to have his final pay calculated in accordance with this regulation, whether or not the period of notice has expired. The regulation has also been amended to clarify that this regulation does not apply to a member who has opted to take flexible retirement under regulation 18.

Regulation 9 amends regulation 17 (retirement after normal retirement age) to make it clear that a member who joins the Scheme after age 65 is entitled to a pension.

Regulation 10 amends regulation 18 (flexible retirement) to clarify that benefits taken after age 65 are actuarially enhanced.

Regulation 11 amends regulation 20 (early leavers: ill-health) to clarify that the independent medical practitioner assesses the member's ability to undertake gainful work. The transitional protection for a person who was a member before 1st April 2009 and was aged 45 (or more) before that date only applies to member with continuous membership before 1st April 2009.

Regulation 12 amends regulation 23 (death grants: active members) to disregard the reduction in final pay, where a member was in part-time employment as a result of a medical condition and that condition subsequently leads to the death of the member, in the calculation of the death grant.

Regulation 13 amends regulation 24 (survivor benefits: active members) to clarify the provisions under which a survivor's pension is calculated and ensures that any reduction in final pay because a member was in part-time employment as a result of ill-health is ignored in the calculation of survivor benefits.

Regulation 14 amends regulation 29 (calculation on leaving early) to make it clear that early leavers cannot choose to take part of their deferred benefits at age 65.

Regulation 15 amends regulation 31 (early payment of pension: ill-health) to clarify that the independent medical practitioner assesses the deferred member's ability to undertake gainful work.

Regulation 16 amends regulation 39 (commutation: small pensions) to include a flexibility under section 164(1)(f) of the Finance Act 2004 which enables the commutation of benefits not in excess of £2,000 in one scheme. This brings the Benefits Regulations into line with the Registered Pension Schemes (Authorised Payments) Regulations 2009.

Regulation 17 amends paragraph (6) of the Schedule (councillor members) to make it clear that the original policy intention was that the independent registered medical practitioner assesses the councillor's ability to undertake any gainful employment.

Regulation 18 introduces amendments set out in regulations 19 to 22 relating to the Administration Regulations.

Regulation 19 amends regulation 11 (periods of membership) to ensure the continued protection of classroom assistants' pensions, where a member decides to aggregate a period or periods of protected membership with another period of membership or where a member has concurrent employments and is a member of the Scheme in both employments, if one employment ends and the member decides to join the periods or periods of protected membership from the terminated employment with the period of membership in the current employment.

Regulation 20 amends regulation 13 (concurrent employments) to enable members, subject to certain conditions, to aggregate periods of membership in concurrent employments.

Regulation 21 amends regulation 22 (use of accumulated value of Additional Voluntary Contributions (AVCs) and Shared Cost Additional Voluntary Contributions (SCAVCs)) to include two new paragraphs. The first of which will give the Committee the discretion to pay the accumulated value to a member's personal representatives in the event of his or her death. This discretion was included in the Local Government Pension Scheme Regulations (NI) 2002 but was not carried forward to the current Administration Regulations. The second new paragraph will require the Committee to make the payment of the total accumulated value within two years of the member's death, to his or her personal representatives.

Regulation 22 inserts a new regulation, regulation 47A (payments for persons incapable of managing their affairs) enables the Committee to determine how and to whom benefits may be paid for the benefit of a person who is incapable of managing their own affairs.

A regulatory impact assessment has not been produced for these Regulations as it has no impact on the cost of businesses, charities, social economy enterprises or the voluntary sector.