



Department for
Communities

An Roinn
Pobal

Department for
Commonities

www.communities-ni.gov.uk

Consultation on the draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2022

SCOPE OF CONSULTATION	
Topic of this consultation:	This consultation seeks views on changes to the Local Government Pension Scheme in Northern Ireland (LGPS (NI)). It outlines proposed changes to the LGPS (NI) to cover both the changes required by an Employment Tribunal ruling in relation to survivor benefits, and a number of technical amendments and minor policy updates.
Scope of this consultation:	The Department for Communities (DfC) is consulting on changes to the regulations governing the LGPS (NI).
Geographical scope:	These proposals relate to the LGPS in Northern Ireland only.
Impact Assessment:	A screening for equality impact assessment is published alongside this consultation document on the Department's website .

BASIC INFORMATION

To:	<p>This consultation outlines details of proposed changes to the LGPS (NI) and is particularly aimed at the LGPS (NI) administering authority, scheme members, scheme employers and their representatives.</p> <p>Any change to the LGPS (NI) is likely to be of interest to other stakeholders as well, such as professional advisers and local taxpayers. We welcome views on the proposals from all interested parties.</p>
Body/bodies responsible for the consultation:	<p>This consultation is being undertaken by the Local Government & Housing Regulation Division in the Department for Communities.</p>
Duration:	<p>This consultation is open from 8 October 2021 to 10 December 2021.</p>
Enquiries:	<p>For any enquiries about this consultation, please email the Department at: lgpdconsultations@communities-ni.gov.uk</p> <p>Or write to:</p> <p>LGPS (NI) Consultation, Department for Communities, Local Government & Housing Regulation Division, Level 4, Causeway Exchange, 1-7 Bedford Street, Town Parks, Belfast, BT2 7EG</p>

How to respond:

You can also add your comments directly onto this document and email your responses to:

lgpdconsultations@communities-ni.gov.uk

or download and post to:

LGPS (NI) Consultation,
Department for Communities,
Local Government & Housing Regulation Division,
Level 4,
Causeway Exchange,
1–7 Bedford Street,
Town Parks,
Belfast,
BT2 7EG

When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation.

If you are replying on behalf of an organisation please include:

- Your name
- Your position in the organisation (if applicable)
- The name of your organisation (if applicable)
- An address (including postcode)
- An email address

Consultation Reponse:	<p>We will consider the responses received and publish an outcome report on the Departmental website.</p> <p>In line with good practice and sustainable development this document has been published electronically.</p>
Accessibility:	<p>A range of alternative formats are available upon request from this Department.</p> <p>Please email the Department at: lgpdconsultations@communities-ni.gov.uk</p> <p>Or write to:</p> <p>LGPS (NI) Consultation, Department for Communities, Local Government & Housing Regulation Division, Level 4, Causeway Exchange, 1-7 Bedford Street, Town Parks, Belfast, BT2 7EG</p>

HOW WE CONSULT	
Consultation Principles:	<p>This consultation is being conducted in line with the Fresh Start Agreement – (Appendix F6 - Eight Steps to Good Practice in Public Consultation-Engagement). These eight steps give clear guidance to departments on conducting consultations.</p>
Feedback on the consultation process:	<p>We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you feel that the consultation does not adhere to the values expressed in the Eight Steps to Good Practice in Public Consultation-Engagement or that the process could be improved, please address them to:</p> <p>LGPS (NI) Feedback on the Consultation Process, Department for Communities, Local Government & Housing Regulation Division, Level 4, Causeway Exchange, 1-7 Bedford Street, Town Parks, Belfast, BT2 7EG</p> <p>Email: lgpdconsultations@communities-ni.gov.uk</p> <p>Please title your correspondence as “Feedback on the Consultation Process”</p>

**Privacy, Confidentiality
and Access to
Consultation Responses**

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity may be published. We will remove names, email addresses and telephone numbers from these responses; but apart from this we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however all disclosures will be in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulations (EU) 2016/679.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for the information under the FOIA or EIR.

DfC is the data controller in respect of any personal data that you provide, and DfC's privacy notice, which gives details of your rights in respect of the handling of your personal data can be found at:

<https://www.communities-ni.gov.uk/dfc-privacy-notice>

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1. Purpose of the consultation – scope and timeframe

- 1.1 This consultation covers proposals to amend the legislation governing the Local Government Pension Scheme (Northern Ireland) (“LGPS (NI)”).
- 1.2 The proposed amendments cover both the changes required by an Employment Tribunal ruling in relation to survivor benefits, and a number of technical amendments and minor policy updates.
- 1.3 Section 21(1) of the Public Service Pensions Act (NI) 2014 requires the Department to consult such persons (or representatives of such persons) as appear to the Department likely to be affected.
- 1.4 The closing date for submitting responses is 10 December 2021.
- 1.5 The Department will consider and respond to comments it receives during this consultation.
- 1.6 Responses are invited to this consultation about any aspect set out in this paper.

2. Background

- 2.1 The LGPS (NI) is a defined benefits scheme under the Public Service Pensions Act (NI) 2014. It is also a funded scheme. The 2014 Act introduced pension reforms across public sector pension schemes to address the impact of long term scheme costs for taxpayers and employers.
- 2.2 It is the responsibility of the Department to update the legislative framework for the LGPS (NI) taking account of developments in public sector pension policy.

3. Survivor Benefits

- 3.1 Following the Walker v Innospec Supreme Court judgment, the Westminster government decided that surviving male same-sex and female same-sex spouses and civil partners of public service pension scheme members should generally receive benefits equivalent to those received by widows of opposite sex marriages.
- 3.2 A case brought in the Employment Tribunal against the Secretary of State for Education in England and Wales highlighted that these changes may lead to direct sexual orientation discrimination within the Teachers’ Pension Scheme, where male survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor.

3.3 The Westminster government concluded that changes were required to the Teachers' Pension Scheme to address the discrimination. They also stated that this difference in treatment would need to be remedied in those other public service pension schemes where the husband or male civil partner of a female scheme member is in similar circumstances.

3.4 Before either of these rulings, and before the introduction of same-sex marriage and opposite-sex civil partnerships in Northern Ireland, the LGPS (NI) had differing treatment for the survivors of post service marriages. If the survivor was a widow, their pension was based on service back to 1978, but if they were a widower, the service counted was only to 1988. Surviving civil partners were treated as equivalent to widowers.

3.5 The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (NI) Regulations 2019, which were introduced through Westminster, implemented the Walker amendments. They equalised same-sex survivors, either spouses or civil partners, with widows of opposite-sex marriages but made survivor benefits of male survivors of opposite-sex civil partnerships the same as for widowers of opposite-sex marriages. These amendments were only introduced from 13 January 2020, unlike in the

LGPS (England and Wales) where these amendments were made retrospective to 2005 for civil partnerships and 2014 for single-sex marriage when each became legal.

3.6 Following the Goodwin ruling, we now need to equalise benefits for male survivors of opposite-sex marriages or civil partnerships. As, in Northern Ireland, the Walker amendments were only introduced from 13 January 2020, we have the choice of making the Goodwin amendments retrospective to the same date or of making both the Goodwin and Walker amendments retrospective to 2005.

3.7 It is proposed that the policy intent of ensuring equality of treatment regardless of gender or sexual orientation is best implemented through making both amendments retrospective to 2005.

4. Other amendments

4.1 In addition to the changes needed to take account of the Walker judgment and the Goodwin ruling, it is proposed that the draft Regulations (see Annex A) should include amendments to make a number of drafting improvements that clarify the original policy intent and introduce a number of minor policy changes. These proposed amendments cover the following areas –

- 1) Introduction of a power for the Department to issue statutory guidance on the operation of the Scheme's regulations – this mirrors an equivalent power taken by the Secretary of State in E&W following a number of successful legal challenges and aims to deliver greater standardisation of approach in particular in relation to the consistent interpretation of regulations (regulation 3).
- 2) 30 day rule (regulation 16A of the Local Government Pension Scheme Regulations (NI) 2014 (“the 2014 Regulations”)) – it is proposed that the rule regarding automatically continuing contributions during “absences with permissions” of less than 30 days should be amended. The current regulation states that where an absence is more than 30 days the regulation applies in respect of the first 30 days only. This has created issues with extended maternity leave as employers are unable to pick up on the need to change the contribution situation at the 30 day point. It is proposed to amend this so the automatic continuance of contributions only applies to absences of less than 30 days. For longer absences the member can arrange to make up the contribution gap on their return through Additional Pension Contributions (regulation 4).
- 3) Removal of limit of 50% of pensionable pay for Additional Voluntary Contributions (AVC) contributions – this is considered to be unnecessary in addition to current tax related limits on pension contributions (regulation 5(a)).
- 4) Special lump sum death benefit charges – changes to the Finance Act 2004^a mean that these charges can now apply where the member died before the age of 75 – the wording needs to be adjusted to reflect this (regulation 5(b)).
- 5) There is currently a requirement that refunds to members are made within 5 years of their leaving service. This is amended to allow the Committee the discretion to pay after this, if they consider this is justified (regulation 6).
- 6) Multiple events within the same accounting period – this amendment clarifies how revaluation adjustments are to be handled in the instance where a member ceases to be an active member, becomes a deferred member and a pensioner member all within the same Scheme year (regulation 7).

^a Taxation of Pensions Act 2014, s 3, Sch 2, Pt 2, para 17(3); Finance (No 2) Act 2015, s 21(2)

- 7) Death grants – previously these had only been paid if a member died before the age of 75 as, under the Finance Act 2004, such payments where the member was over 75 at death were unauthorised. This was changed by the Finance Act 2011, Schedule 16, Para 33(3)(a). This change, in conjunction with a rising normal retirement age and the removal of mandatory retirement ages mean that this limit should be removed. Pensions are paid from age 75 even if the member is still working, therefore, it is proposed to extend death grants to all over 75s on the same basis as pensioners i.e. 10 times the annual pension earned minus any payments already received. It is also proposed to make this retrospective to the start of the 2015 scheme (regulations 8, 9 and 23).
- 8) Exit certificates – this amendment allows the administering authority, the Northern Ireland Local Government Officers’ Superannuation Committee (NILGOSC) to issue an interim exit certificate subject to Departmental approval and conditions. This is useful in circumstances where the exit has happened rapidly eg insolvency and the financial situation is uncertain (regulation 10).
- 9) Internal dispute resolution procedure – it is proposed that the time period for decisions should be extended from 2 to 4 months. The need for medical examinations, reports, etc often make a two month deadline impossible to meet leading to multiple breach reports. The Pensions (NI) Order 1995 states that these decisions must be within a reasonable time period - the Pensions Regulator expects them to be made within four calendar months, therefore, we would propose adopting a similar period in the LGPS Regulations (regulation 11).
- 10) Forfeiture – At present forfeiture can only occur where a member has committed an offence in connection with their employment for which they have been convicted and because of which the member left that employment. The nature of employment-related offences means that they are often not uncovered until after the perpetrator has left their employment for other reasons. It is therefore proposed to remove the requirement for the member to have left their employment due to the offence (regulation 12).
- 11) Definitions – some minor amendments are made to definitions in Schedule 1 (interpretation) to the Local Government Pension Scheme Regulations (NI) 2014 (“the 2014 Regulations”) in order to ensure clarity (regulation 13).

- 12) Schedule 2 to the 2014 Regulations is amended to clarify that the Committee has discretion on admission. It is now consistent with regulation 5 of the 2014 Regulations (regulation 14).
- 13) References to the Regional Health and Social Care Board (HSC) are removed from Schedule 3 to the 2014 Regulations. There are no longer any HSC members in the LGPS NI and this also anticipates the planned move of HSC Board staff into the Department of Health (regulation 15).
- 14) Clarification is provided regarding the calculation of death grants for those who were only members of the previous schemes (regulation 17).
- 15) Regulations 18 and 19 covers the changes required by the Goodwin along with corrections to the terminology regarding survivor pensions/benefits and amendments to clarify contracted out service (regulations 18 and 19).
- 16) Clarification is provided regarding the application of the 85 year rule (regulation 20).
- 17) The LGPS (Benefits, Membership and Contributions) Regulations (NI) 2009 are amended to ensure that fluctuating emoluments are always averaged over a three year period when calculating final salary for pension purposes (regulation 22).

5. Human Rights

- 5.1 The Department believes that the proposals set out in the draft Regulations are compatible with the Human Rights Act 1998.

6. Equality

- 6.1 The Department considers that the draft Regulations do not contain proposals to change policy in a substantive way, therefore, no adverse impact on the categories of person in section 75 of the Northern Ireland Act 1998 are identified. A minor positive impact has been identified in the section 75 categories of gender (men and women generally), sexual orientation, age, marital status and persons with dependents.

7. Regulatory Impact Assessment

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

8. Rural Proofing

- 8.1 The Department considers that the proposed amendments in the draft Regulations will not have any differential impact on people living in rural areas.

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2022 No.

LOCAL GOVERNMENT

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

Made - - - - *XX Month Year*

Coming into operation - *XX Month Year*

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

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

The retrospective provisions contained in these Regulations do not appear to the Department to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by The Local Government Pension Scheme Regulations (Northern Ireland) 2014(e), or the schemes preserved by the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014(f), nor in any other way in relation to members of those schemes. Accordingly, the procedures set out in section 23 of that Act are not applicable in respect of these Regulations.

Citation, commencement and retrospectation

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

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

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

(a) Formerly known as the Department for Social Development; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.)

(b) Formerly known as the Department of Finance and Personnel; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.)

(c) 2014 c.2 (N.I.)

(d) *See* S.R. 2016 No. 76, Article 8 of and Schedule 5 to the Departments (Transfer of Functions) Order (Northern Ireland) 2016 transferred functions to the Department for Communities which were previously exercisable by the Department of the Environment

(e) S.R. No. 188 as amended by S.R. 2015 No. 77, S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2019 No. 206 and S.R. 2020 No. 77

(f) S.R. No. 189 as amended by S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2016 No. 329, S.R. 2019 No. 206 and S.R. 2020 No. 77

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

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

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

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

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

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

5. In regulation 19 (additional voluntary contributions)—

(a) omit paragraph (5A); and

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

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

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

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

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

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

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

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

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

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

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

(a) after paragraph (2) insert—

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

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

(b) in paragraph 14—

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

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

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

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

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

13. In Schedule 1 (interpretation)—

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

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

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

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

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

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

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

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

18. In regulation 17 (survivor benefits)—

- (a) in the heading for “Survivor benefits” substitute “Survivor pension”;
- (b) in paragraph (1)—
 - (i) for “Survivor pensions” substitute “Except where regulation 9A(4) (aggregation adjustments etc.) applies, survivor pension”; and
 - (ii) for “are” substitute “is”.
- (c) in paragraph (2)—
 - (i) for “paragraphs (5) to (9)” substitute “paragraphs (5) to (8)”;
 - (ii) in sub-paragraph (a) for “benefit” substitute “pension”.
- (d) in paragraph (4) for “paragraphs (5) to (9)” substitute “paragraphs (5) to (8)”;
- (e) for paragraphs (5) to (10) substitute—

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

- (a) the definition of “eligible child” contained in Schedule 1 (interpretation) to the 2014 Regulations is substituted for the definition contained in regulation 26

(meaning of “eligible child”) of the Benefits Regulations and the corresponding provisions in the former regulations;

- (b) any calculation of the survivor pension payable under the former regulations to a person who is the surviving civil partner of a member is on the basis that the survivor is a surviving spouse; and
- (c) in the calculation of any survivor pension under the former regulations any reference to contracted out membership is to be read as including contracted in membership.

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

(7) Any calculation of any survivor pension payable under the former regulations in respect of surviving civil partner or spouse of a member who enters into a civil partnership or marriage after leaving active membership and dies—

- (a) is only to take account of membership accrued by that member after 5th April 1978; and
- (b) where that member has made an inward transfer to the Scheme after 5th April 1988 in relation to which the member is entitled to reckon a period of service or, as the case may be, count a period of membership under the former regulations, that period of service or membership shall be regarded as a period of service or membership after 5th April 1978, notwithstanding the following provisions and without limiting the effect of those provisions in relation to any other matter—
 - (i) regulations K14 (inward transfers) and K15 (right to count service) of the 2000 Regulations;
 - (ii) regulations 124 (inward transfers of pension rights) and 125 (right to count credited period) of the 2002 Regulations;
 - (iii) regulations 79 (inward transfer of pension rights) and 80 (right to count credited period) of the Administration Regulations; and
 - (iv) regulation 9 (transfers).

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

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

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

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

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

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

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

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

Revocation

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

The Department of Finance consents to the making of these Regulations

Sealed with the Official Seal of the Department of Finance on XX Month 2022

Name

A senior officer of the Department of Finance

Sealed with the Official Seal of the Department for Communities on XX Month 2022

Anthony Carleton

A senior officer of the Department for Communities

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations make minor technical amendments to the following Regulations –

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

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

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

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

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

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

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

Regulation 5 removes the 50% limit of pensionable pay limit on contributions to additional voluntary contributions and it also brings these regulations into line with section 206 of Finance Act 2004 in relation to defined benefit lump sum death grant by deleting “Where the member has attained the age of 75” from regulation 19(13) (additional voluntary contributions).

Regulation 6 amends regulation 20(5) (rights to return of contributions) to give the Committee the discretion to refund contributions outside of the five year limit.

Regulation 7 amends regulation 28 (retirement pension accounts: deferred members and pension credit members) to clarify the administrative arrangements required where a member ceased to be an active member, became a deferred member and a pensioner member all within the same Scheme year.

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

Regulation 10 amends regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) to give the Department the power, subject to such conditions as it considers appropriate, to approve the issue of an exit certificate by the Committee on an interim basis.

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

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

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

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

Regulation 15 substitutes paragraph 13 in Part 2 (powers of the Committee) of Schedule 3 (the committee: preliminary provisions) to remove the obsolete reference to Regional Health and Social Care Board.

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

Regulation 17 amends regulation 16 (death grants) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment where the member's eligibility for a death grant accrued under the earlier schemes.

Regulation 18 amends regulation 17 (survivor benefits) to bring members' eligibility to survivor pensions in to line with recent court judgments to ensure that all survivors' pensions of post retirement marriages and civil partnerships are calculated on the same basis.

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

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

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

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

Regulation 24 revokes an earlier amendment.

List of Consultees

1.	All Members of the Northern Ireland Legislative Assembly
2.	All Northern Ireland political parties and MPs
3.	All Northern Ireland District Councils
4.	The Chief Executive of the Education Authority
5.	The Chief Executive of the Northern Ireland Housing Executive
6.	The Chief Executive of Translink
7.	Employing Authorities contributing to the LGPS (NI)
8.	Northern Ireland Local Government Association
9.	National Association of Councillors (Northern Ireland Region)
10.	Northern Ireland Local Government Officers' Superannuation Committee
11.	Northern Ireland Committee of the Irish Congress of Trade Unions
12.	Northern Ireland Public Service Alliance
13.	Unite
14.	GMB
15.	Unison
16.	Various representative groups and bodies
17.	Equality Commission for Northern Ireland
18.	SOLACE NI (the Irish Branch of the Society of Local Authority Chief Executives and Senior Managers (UK)).

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