

Northern Ireland Civil Service Pension Scheme: Prospective Remedy

A draft Statutory Rule covering the move to alpha
from 1 April 2022

A consultation produced by Department of Finance

This consultation begins on 20 December 2021
This consultation ends on 25 February 2022

About this consultation

- To:** This consultation is aimed at civil service scheme members who are impacted by being moved to the **alpha** pension scheme.
- Duration:** From 20 December 2021 to 25 February 2022
- Enquiries (including requests for the paper in an alternative format) to:** Email (preferred): PLCconsultations@finance-ni.gov.uk
OR write to:
Prospective Remedy Consultation
CSP Policy, Legislation & Communications Branch
Department of Finance
Waterside House
75 Duke Street
Derry/Londonderry
BT47 6FP
- How to respond:** Email (preferred): PLCconsultations@finance-ni.gov.uk
OR write to:
Prospective Remedy Consultation
CSP Policy, Legislation & Communications Branch
Department of Finance
Waterside House
75 Duke Street
Derry/Londonderry
BT47 6FP
- Response paper:** A response to this consultation exercise is due to be published by 9 March 2022 at: <https://www.finance-ni.gov.uk/> under the “Consultations” link near the top right of the webpage.

Contents

Executive summary	4
Introduction	5
The proposals	6
Core prospective remedy	8
Added pension	8
Ill-health retirement	8
Other changes	12
Questionnaire	13
Contact details and how to respond	14
Equality and other screening	14
Complaints or comments	14
Alternative formats	14
Confidentiality	14
Annex A – Privacy Notice for Department of Finance	15
Annex B: Glossary of terms	20
Annex C: Draft The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022	22

Executive summary

- 1.1. In April 2015, the Coalition Government and devolved administrations introduced reformed (defined benefit) public service pension schemes. The changes followed a fundamental structural review of public service pensions by the Independent Public Service Pension Commission, chaired by Lord Hutton of Furness. As part of these changes, protection was afforded to certain members of the existing public service schemes which allowed them to remain in their existing pension schemes and not transfer to the new reformed schemes (referred to as ‘transitional protection’). Members eligible for this protection were either (a) within ten years of their normal pension age as at 31 March 2012 (known as ‘full protection members’) or (b) within ten years and thirteen years and six months of their normal pension age and could elect to remain in their existing scheme for a particular period of time after that scheme closed as a result of the reforms (known as ‘tapered protection members’).
- 1.2. In December 2018, the Court of Appeal found that transitional protection unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. It also indirectly discriminated against women and ethnic minorities. The Courts required that this unlawful discrimination be remedied by the Government. Rulings of the Court of Appeal in England and Wales are not directly binding here. However, the devolved public service schemes in Northern Ireland incorporate the same transitional protection arrangements as the schemes in Great Britain and the implications of the Appeal Court decision are such that all schemes must be treated as affected and so require to be remedied.
- 1.3. In order to remedy the discrimination, HM Treasury held an open consultation to consider the potential options to remove the discrimination. Following the close of the consultation in October 2020, and the publication of the consultation response in February 2021, the Public Service Pensions and Judicial Offices Bill (“PSPJO”) was published in July 2021.
- 1.4. The Department of Finance undertook a separate consultation in relation to the devolved public service pension schemes in Northern Ireland, which closed on 18 November 2020. A motion to extend the provisions of the Bill to public service schemes here was debated in the Assembly on 1 November 2021 and a Legislative Consent Motion (LCM) was passed. The Public Service Pensions and Judicial Offices Bill is currently in passage at Westminster.
- 1.5. The scheme manager for the Northern Ireland Civil Service (defined benefit) pension schemes will be required to implement the scheme-level changes mandated by the Bill. This consultation will address the changes being made to implement the ‘**prospective remedy**’, which involves moving all remaining active members (including partially retired members in active service) to the reformed scheme, ‘alpha’, from 1 April 2022.¹ The legacy scheme (i.e. the Principal Civil Service Pension Scheme (Northern Ireland), “PCSPS(NI)”) will be closed to future accrual from 31 March 2022.

¹ For clarity, where a tapered protection member is scheduled to transfer to alpha before 1 April 2022, they will continue to be transferred on the planned transfer date.

Introduction

This consultation concerns the draft provisions being made in The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022 – see Annex C.

It is aimed at members currently in the civil service legacy pension scheme (PCSPS(NI)) who will be moving to the reformed scheme (alpha) from 1 April 2022 as a result of the prospective remedy. It is also aimed at persons who would have been afforded transitional protection on re-joining the civil service scheme pension arrangements - such as those transferring in from a New Fair Deal employer - but as a result of the prospective remedy, will now join alpha from 1 April 2022.

In addition to provisions relating to the “McCloud” prospective remedy, the draft regulations include some miscellaneous technical amendments which are covered in more detail at paragraph [3.1] of this consultation.

HM Treasury has published a policy impact assessment and an equality impact assessment, which consider the impact of the proposed Bill powers and requirements. The scope of the Section 75 policy screening assessment by the Department of Finance therefore focuses on the impact of the proposed changes to scheme regulations necessary to deliver the Bill requirements and is published alongside this consultation document.

The launch and publication of this consultation document and associated documentation is being notified to:

1. Active scheme members through an Employee Pension Notice
2. The Northern Ireland Committee (NIC) of The Irish Congress of Trade Unions (ICTU)
3. Other Professional and Trade Union Bodies including retired members’ groups
4. MLAs, MPs and political parties
5. Public Service Pension Scheme employers
6. Equality Agencies and Section 75 Equality consultees

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this consultation.

The proposals

Prospective changes to remove discrimination

- 2.1.** In April 2015, public service (defined benefit) pension schemes were reformed; the cost of the legacy schemes had significantly increased over the previous decades, with most of those costs falling to the taxpayer. To protect against unsustainable increases in costs, new schemes were introduced with career average revalued earnings (“CARE”) design and an increased Normal Pension Age (NPA), alongside the introduction of a cost control mechanism. They were also progressive, providing greater benefits to some lower paid workers. The reformed scheme for employees and office holders in the Northern Ireland Civil Service is known as “alpha”.
- 2.2.** As part of the 2015 reforms, those members of the civil service (defined benefit) pension schemes who were within 10 years of their Normal Pension Age (NPA) on 31 March 2012 and who had active status at that point and on 1 April 2015 remained in the appropriate Section of the PCS(NI); this was referred to as transitional protection. In December 2018, the Court of Appeal of England and Wales found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the Government. It is important to note that the transitional protection element of the 2015 reforms was found to be discriminatory, not the reformed scheme (alpha) itself.
- 2.3.** In July 2019, the Government confirmed that it accepted that the Court of Appeal’s judgment had implications for the other public service schemes that had similar transitional arrangements. This extended to the devolved public service pension schemes including the Northern Ireland Civil Service Pension Arrangements.
- 2.4.** On 16 July 2020, the Government published a Command Paper: Public service pension schemes: changes to the transitional arrangements to the 2015 schemes. The consultation set out two proposed options for retrospectively removing the discrimination suffered by members who were not eligible for transitional protection due to their age and proposed that the legacy schemes would be closed to all members on 31 March 2022. The Department of Finance conducted an equivalent consultation for the Northern Ireland Public Service Pension Schemes.
- 2.5.** It is normal practice in discrimination cases to remedy unequal treatment by reverting to the most beneficial option. However, the reforms that were introduced in 2015 were progressive reforms and were in part intended to even out the value of pensions between some of the highest and lowest earners, resulting in some, particularly lower and middle earners, being better off in the new schemes. Simply extending transitional protection to all affected members would address the discrimination identified by the Court but would also mean that some members would be placed in a worse position.

- 2.6. Instead, the Westminster Government and the Department of Finance proposed that members should be given a choice of which scheme benefits they wish to receive during the period from when the new schemes were introduced to the date that the legacy schemes are to be closed. The consultation sought views on whether the choice should be made immediately (once the necessary legislative changes were made) or deferred until the point that a member's pension benefits become payable. In February 2021 both consultation responses were published, confirming that the legacy schemes would close on 31 March 2022 and that affected members would be given a choice of which pension benefits they wish to receive at the point those benefits are payable.
- 2.7. This approach was preferred as it would provide members with greater certainty about their decision and avoid the need for them to make assumptions about matters such as their future career and retirement age, which would increase the risk of making imperfect decisions, particularly for younger members. The responses confirmed that affected members who are already in receipt of pension benefits will be given a choice as soon as possible after the necessary changes to the schemes are implemented via legislation.
- 2.8. In July 2021 the Public Service Pension and Judicial Offices (PSPJO) Bill was introduced into Parliament. The PSPJO Bill also carries provisions for the Northern Ireland schemes, including the Northern Ireland Civil Service schemes, and calls for all civil servants who continue in service from 1 April 2022 onwards to do so as members of alpha. The legacy scheme (Classic, Classic Plus, Premium and Nuvo Sections, collectively known as the PCSPS(NI)) will be closed in relation to service after 31 March 2022, closing the remedy period, during which members in scope will have a choice of benefits. This is known as the **prospective remedy**. Most members had already moved to alpha in 2015, or subsequently transitioned between 2015 and 2022, so they are not impacted by the planned move.
- 2.9. The secondary legislation being consulted on will allow provision for the prospective remedy to be made: the move of all active members to the reformed scheme (alpha) from 1 April 2022, and the closure of the PCSPS(NI) to future accrual from 31 March 2022. This ensures that from 1 April 2022, all active members of the alpha (defined benefit) civil service pension scheme will be accruing benefits in the same scheme.
- 2.10. Whilst it is not required for the regulations, we are setting out how added years and added pension will be treated for members post 1 April 2022. Added years and added pension contracts taken out in the legacy scheme in respect of pensionable service - on or before 31 March 2022 - will continue after 1 April 2022, though members can choose to cancel these once in alpha and purchase alpha added pension instead.
- 2.11. These draft regulations only cover the implementation of the prospective remedy. The PSPJO Bill also introduces measures to provide a retrospective remedy for those who suffered discrimination between the period 1 April 2015 to 31 March 2022. However, the consultation and regulations to implement those retrospective measures are expected to be brought forward in 2022/2023 and this issue is not covered in this consultation.

Proposals to be consulted on:

Core prospective remedy

- 2.12.** Make the amendments required to implement the prospective remedy, which requires moving all active members of the PCSPS(NI) (including partial retirees in active service) to alpha on 1 April 2022 and making consequential changes to the regulations, pursuant to the requirements of the PSPJO Bill.
- 2.13.** The draft regulations amend Schedule 2 (transitional provisions) of the Public Service (Civil Servants and Others) Pensions (Northern Ireland) Regulations 2014 by not allowing any future accrual in PCSPS(NI) from 1 April 2022 for all classes of member in respect of service pensionable under civil service pension terms. This means that from 1 April 2022, all members of the civil service pension arrangements will only be able to accrue benefits in alpha and concurrently the PCSPS(NI) will close to accrual. The technical wording for this is in Annex C.

Added pension

- 2.14.** Remove the restriction on members purchasing alpha added pension by lump sum in the first 12 months of alpha service for members with service in the PCSPS(NI).
- 2.15.** This is necessary as the remedy will create an oddity where no members being moved to alpha will be able to buy added pension by lump sum as they do not have 12 months of alpha service. Furthermore, all remedy members already in alpha will be rolled back to PCSPS(NI) in respect of any pensionable service rendered between 1 April 2015 – 31 March 2022. This will be implemented retrospectively in 2023, meaning that their first year of service in alpha would be 2022-23, invalidating any added pension purchased in this year.
- 2.16.** This was not the policy intent of the original rule, hence the change.
- 2.17.** We are also clarifying in the consultation the position on added pension in light of “McCloud”. This does not require rule changes, but members who have existing PCSPS(NI) added pension or added years contracts to make future contributions will be allowed to continue with them post 1 April 2022.

Ill-health retirement

- 2.18.** Provide that members who apply for ill-health retirement under PCSPS(NI) before 1 April 2022, where the application is determined in their favour after that date, will not be placed in a less generous position than if their application had been approved on 31 March 2022.
- 2.19.** From 1 April 2022 onwards, active members who will be moved to alpha and subsequently become subject to ill-health retirement, will be assessed, and receive ill-health benefits, in accordance with the ill-health arrangements in alpha – this

means that cases will become subject to different qualifying criteria than under the legacy scheme rules.

- 2.20.** There will be cases where the ill-health process will begin on or before 31 March 2022 and will not conclude until 1 April 2022 or later.
- 2.21.** Current transitional provision allows the date a legacy scheme member would otherwise join the new scheme to be delayed until their ill-health pension application has been decided or, where it is not decided in the member's favour, until the member withdraws the application or all appeal routes have been exhausted.
- 2.22.** This provision was permitted by exceptions in the Public Service Pensions Act (Northern Ireland) (PSPANI) 2014 that allowed certain members to remain in the legacy scheme after the date they were due to join the new scheme (between 1 April 2015 and 31 March 2022). The powers under which those exceptions were made are removed from the PSPANI 2014 by the PSPJO Bill from 1 April 2022. This means that all legacy scheme members, including any members who have submitted an application for a legacy scheme ill-health pension, will join the new scheme on that date.
- 2.23.** Therefore there is a need to deal with legacy scheme ill-health pension applications received before 1 April 2022 which have not been taken to completion by 31 March 2022 are considered and to the benefits that will become payable if an application is agreed.
- 2.24.** For any ill-health cases where this is the case, the intended policy is that there should be an "ill-health retirement underpin". This will mean that such members receive a 2015 Scheme ill-health pension calculated at the date they actually retire; but that if a legacy scheme ill-health pension calculated as at 31 March 2022 would have been more favourable, the 2015 Scheme pension must be increased by the difference between the two.
- 2.25.** The "underpin" will effectively guarantee the member an ill-health pension that is at least as much as the they would have received had they been ill-health retired under the terms of their PCSPS(NI) legacy scheme on the 31 March 2022. The proposed ill health underpin will work as follows:
- The member applies for ill-health retirement on or before 31 March 2022, but the outcome of the application is still outstanding as of that date.
 - The member moves to alpha on 1 April 2022 and remains in the scheme until the date of ill-health retirement.
 - An ill-health pension is calculated under the rules of alpha.
 - A notional ill-health pension is calculated in accordance with the member's legacy scheme provisions if they would have met the criteria for an ill-health pension under the legacy scheme had their case been determined on 31 March 2022.
 - Where the ill-health pension award is more favourable under the rules of alpha, the award will be paid from alpha based on the standard ill-health retirement rules of alpha.

- Where the notional legacy scheme award is more favourable, the difference between both calculations will be paid to the member as an alpha pension enhancement on top of the benefit, if any, that would be paid under the standard alpha ill-health retirement provisions.
- In calculating which set of ill-health benefit terms would be more favourable, in cases where both approaches would provide an ill-health retirement benefit, where the legacy scheme is the PCSPS(NI) Classic section, the comparison would be done by assuming that the alpha scheme pension is commuted to provide a lump sum of the same amount as would be provided under the PCSPS(NI) Classic terms (before any optional commutation of that PCSPS(NI) Classic continuing pension). The remaining alpha continuing pension would then be compared with that PCSPS(NI) Classic continuing pension.
- Survivor benefits would be paid in accordance with alpha scheme regulations.
- However, the underpin will also need to allow for the retrospective remedy provisions for choice set out in the PSPJO Bill and provided for in due course under scheme regulations for retrospective remedy. The provision and continuation of an underpin ill-health pension or death and survivors' benefits related to legacy service for the remedy period would depend on legacy service applying for the remedy period (i.e. for the service between 1 April 2015 and 31 March 2022 taken into account for purposes of determining the alpha ill-health retirement "underpin" pension). Therefore, if as a result of a decision by or on behalf of a member, alpha terms were applied for the remedy period, such underpin benefits would either not be payable (if the ill-health process begun before 1 April 2022 had still not been completed) or, if already paid, would be removed and replaced by the benefits that would be payable under the standard 2015 scheme terms without an underpin. Excess benefits already paid would then be recoverable.

2.26. The final detailed approach to achieving the policy intent outlined above is still under development, so our draft regulations do not contain any provision on such ill-health retirements. Subject to the outcome of this consultation, we will use powers provided under the PSPJO Bill to make regulations protecting the position of ill-health retirees whose cases are pending on 31 March 2022, and in particular to ensure they are no worse off as a result of a decision being made after that date.

Questions for consultation:

- 2.27. Question 1:** please comment on whether the draft regulations are sufficient for the purposes of implementing the prospective remedy?
- 2.28. Question 2:** the ill-health retirement amendment reflects the unique position of the group being moved to alpha and will ensure that a member who applies for ill-health retirement before 31 March 2022, and where the application is successful, is treated no less favourably than if the application had been determined on that date. Do you have any views on this proposal, in particular, whether there are any adverse impacts about which you are concerned?
- 2.29. Question 3:** are there any other areas which you think should be addressed in these regulations in order to ensure that all members are successfully moved to alpha from 1 April 2022?
- 2.30. Question 4:** Are there any further considerations and evidence that you think Department of Finance should take into account when assessing any equality issues arising as a result of the proposed amendments? Any comments should be made after reading the accompanying Section 75 policy screening document.

Other changes

3.1. Opportunity is also being taken to make the following corrections and clarifications:

- retrospective amendment to regulation 121 to make clear that payment of the lump sum death benefit is discretionary. This will bring alpha provisions into line with existing practice, the PCSPS(NI) and other public service pension schemes, and will achieve the intended effect in relation to inheritance tax. This amendment is not considered to have an adverse effect on members. The provision would be effective from 1 April 2015;
- amendment to regulation 142 to correct a cross reference to the wrong subsection of the Pension Schemes (Northern Ireland) Act 1993;
- amendment to paragraph 7 of schedule 1 to remove the initial 12-month bar on making lump sum payments towards added pension for members transferring into alpha from the legacy scheme; and
- amendment to paragraphs 16, 17, 25 and 26 of Schedule 2 to make clear that in circumstances where transitional protection applied to people who returned to the civil service pension arrangements by virtue of employment with an organisation admitted under the New Fair Deal policy, protection also applied to people who returned by virtue of employment in the civil service.

Question for consultation:

3.2. **Question 5:** Do you agree that the amendments referenced in [3.1] are correct and are you aware of any adverse impacts on members or the scheme that will result from them?

Questionnaire

We would welcome responses to the following questions set out in this consultation document.

Question 1: please comment on whether the draft regulations are sufficient for the purposes of implementing the prospective remedy?

Question 2: the ill-health retirement amendment reflects the unique position of the group being moved to alpha and will ensure that a member who applies for ill-health retirement before 31 March 2022, and where the application is successful, is treated no less favourably than if the application had been determined on that date. Do you have any views on this proposal, in particular, whether there are any adverse impacts about which you are concerned?

Question 3: are there any other areas which you think should be addressed in these regulations in order to ensure that all members are successfully moved to alpha from 1 April 2022?

Question 4: Are there any further considerations and evidence that you think Department of Finance should take into account when assessing any equality issues arising as a result of the proposed amendments? Any comments should be made after reading the accompanying Section 75 Equality Screening document.

Question 5: Do you agree that the amendments referenced in [3.1] are correct and are you aware of any adverse impacts on members or the scheme that will result from them?

Thank you for participating in this consultation exercise.

Contact details and how to respond

For information about how we treat your personal data when you respond to our consultation, please see the **Privacy Notice at Annex A**.

Please send your response by 25 February 2022 to:

Email (preferred): PLCconsultations@finance-ni.gov.uk

OR write to:

Prospective Remedy Consultation

CSP Policy, Legislation & Communications Branch

Department of Finance

Waterside House

75 Duke Street

Derry/Londonderry

BT47 6FP

Equality and other screening

The Department conducted a Section 75 policy screening assessment and a Rural Needs Impact Assessment for the changes outlined above. The introduction of these changes will remove the difference in treatment prospectively in that from 1 April 2022, all members of the civil service pension arrangements will only be able to accrue benefits in alpha. The Department does not believe that the proposals will impact people living in rural areas any differently to those people in urban areas. Both assessments are published on the Civil Service Pensions Website alongside this consultation paper.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact CSP Policy, Legislation & Communications Branch at the above address.

Alternative formats

The Department will consider requests to produce this document in other languages or in alternative formats – Braille, audio, large print or as a PDF document. If you require the document in these or other formats please contact CSP using the details above, or telephone 028 7131 9000.

Confidentiality

If you want the information that you provide to be treated as confidential, please explain to us why you regard the information you have provided as confidential. We will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department of Finance. You should be aware that the Department of Finance may publish a synopsis of responses to the consultation.

Annex A – Privacy Notice for Department of Finance

Data Controller

Department of Finance
Clare House
303 Airport Road
Belfast
BT3 9ED

Data Protection Officer

Jenny Lynn
Room 20, Dundonald House
Upper Newtownards Road
Belfast
BT4 3SB
Telephone: (028) 9052 4149
Email: DataProtectionOfficer@finance-ni.gov.uk

This privacy notice explains how the Department of Finance (DoF) uses information about you and the ways in which we will safeguard your data.

This privacy notice does not provide exhaustive detail of all aspects of DoF's collection and use of personal information. More detail can be found in each of our business areas:

- Land and Property Services (LPS)
- Northern Ireland Statistics and Research Agency (NISRA)
- NICS Human Resources (NICSHR)
- Construction and Procurement Delivery (CPD)
- Enterprise Shared Services (ESS)
- Departmental Solicitor's Office (DSO)
- Finance and Corporate Services Division (FCSD)
- Communications and Engagement Division (CaED)
- Group Internal Audit and Fraud Investigation Service (GIAFIS)
- Public Spending Directorate (PSD)
- Strategic Policy and Reform Directorate (SPAR)

What information we need

DoF is the data controller of the personal data we process. The personal data we need to process includes your:

- personal details
- family and social circumstances
- financial details
- employment and education details
- goods or services provided
- business details of sole traders
- property details

We also process special categories of personal data that include details on:

- health

- racial or ethnic origin
- religious or philosophical beliefs
- trade union membership
- sexuality and sexual orientation

We do not collect more information than we need to fulfil our stated purposes and will not hold it for longer than is necessary.

Why we process personal information

We collect and process personal information in order to meet our legal obligations and for the performance of our public functions.

We collect personal information to enable us to deliver our services, to maintain our accounts and records, to support and manage Northern Ireland Civil Service staff and for the purposes of litigation and legal advice. We also process personal information for the purposes of detection and investigation of suspected or actual fraud, loss or crime, data matching under the National Fraud Initiative and as required by other legislation.

We also process personal information where it is necessary for the purposes of the legitimate interests pursued by the Department or by a third party i.e. for nominations for awards or rewards, to send out invitations for meetings or events, to send out information about opportunities for working with us, and to know who will be in our buildings for security and health and safety purposes.

We will only collect and hold the minimum amount of personal data necessary in order to provide and manage our services.

How we obtain personal data

We obtain personal information directly from you and from other sources, such as government departments.

We may also collect information when you complete surveys or participate in consultations.

We can also obtain your personal data from publicly accessible sources.

Who your information may be shared with

In many circumstances, we will not disclose personal information at all (for example, where personal data is provided for the production of official statistics) and, in others, will seek your consent before doing so. However, in certain cases, we may share your data with the following to meet our legislative or public function requirements, to pursue debt, for fraud or crime prevention and detection purposes, to process benefits, or in your vital interests:

- your family, associates or representatives;
- employment and recruitment agencies;
- current, past and prospective employers;
- educators and examining bodies;
- central government bodies;

- local government bodies;
- other public bodies
- credit reference agencies;
- suppliers and service providers;
- debt collection and tracing agencies;
- financial organisations;
- courts, tribunals and parties to litigation;
- police forces;
- emergency responders.

Our Departmental guidance on data sharing provides further information on the factors we shall consider when deciding whether information should be disclosed to other parties.

How we use information about you

Any personal information we process will only be used for the purposes stated or if necessary to fulfil legal or regulatory requirements.

DoF has appropriate technical and organisational security measures in place to prevent unauthorised or unlawful processing of personal data, and against accidental loss or destruction of, or damage to personal data. However, in the event of a data breach occurring we have procedures in place to investigate and notify the Information Commissioner's Office and impacted individuals, where appropriate.

Most of the personal data we use is processed within the UK and European Economic Area (EEA). Sometimes it may be necessary to transfer personal information outside the UK and EEA. Where this is required, information may be transferred to countries or territories around the world. Any transfers made will be in full compliance with all aspects of data protection legislation.

How long we keep your personal data

We keep personal information about you only for as long as is necessary to fulfil the purpose and in line with the DoF Retention and Disposal Schedule, after which time it will be destroyed securely.

DoF website and personal information

The DoF website uses leading technologies and encryption software to safeguard your data and keeps strict security standards to prevent any unauthorised access to it.

What information does the DoF website collect?

The Department collects three kinds of information from visitors to the website:

- feedback (through visitors emailing us)
- customer satisfaction surveys (via optional online surveys)
- site usage information, using cookies and page tagging techniques including JavaScript

Feedback

If you email us from the DoF website, we will keep a record of your message for a maximum of three months after the conclusion of correspondence, for reference and audit purposes, after which it will be deleted.

Cookies

This website and some of the tools and services we link to use cookies. You can find more information on these cookies on the following pages:

- Cookies
- How we use cookies

What happens when I link to another site?

This website contains links to other websites, both of government departments and other organisations. This privacy notice applies only to this site, so you should always be aware when you are moving to another site and read the privacy notice of any other site(s) which may collect personal information about you.

This website does not pass on to any other site any personal information you have given.

What happens when I come to this website site from another site?

Where you are directed to this website from another site (whether a third party site or a government site) we may receive personal information relating to you from the other site(s). You should read the privacy notices for these sites as these will govern the use of any personal information that you provide and which may then be provided to this website.

Your rights

Under data protection legislation, you have rights as an individual which you can exercise in relation to the information we hold about you. The Department tries to be as open as possible in terms of giving you access to your personal data. You can find out if we hold any information by making a subject access request. If we do hold information about you, we will, where possible:

- Give you a description of it;
- Tell you why we are holding it;
- Tell you who it could be disclosed to; and
- Let you have a copy of the information in an intelligible form.

To make a request for any personal information we may hold, you can contact our Data Protection Officer whose details can be found at the top of this notice or email us at DataProtectionOfficer@finance-ni.gov.uk.

If, at any point, you believe the information we process on you is incorrect, you can ask to have this information corrected. In certain circumstances, you may also ask us to erase or restrict the processing of your data. If you wish to object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer who will investigate the matter.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at; casework@ico.org.uk, or:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Changes to this Privacy Notice

We keep our privacy notice under regular review. This privacy notice was last updated in February 2021.

Annex B: Glossary of terms

Active member - Members who are working (in pensionable service) and accruing pension benefits from that work and from contributions paid by their employer on their behalf. In most cases the member is also making contributions.

Added pension - Available in legacy and reformed schemes allowing members to purchase additional amounts of pension (employers can also contribute as well as or on behalf of the member).

Added years - Contracts available in some legacy schemes allowing members to purchase additional years of service.

Career Average Revalued Earnings (CARE) Scheme - A defined benefit pension scheme that gives individuals a pension based on a percentage of the salary earned in each year of their working life. The annual “pot” is increased each year by a particular revaluation factor applied in that scheme. The Civil Service version is alpha.

Defined Benefit (DB) pension scheme - A pension scheme where the pension is related to the members’ salary or some other value fixed in advance.

Ill-health retirement - A type of pension available to a member who meets the relevant test in scheme regulations when they are unable to continue working due to ill-health.

Legacy scheme - The public service pension schemes members were in prior to 1 April 2015.

Lump sum - A specific payment made in respect of a member’s pension rights. It can be an optional or mandatory pension lump sum payable to a member when a continuing retirement pension is brought into payment (often referred to as a pension commencement lump sum (PCLS)). Other lump sums are payable in respect of events such as death.

Minimum Pension Age (MPA) - The earliest age at which ordinary retirement benefits can be brought into payment for a member under the rules of that scheme, and subject to tax limits. Ill-health and survivor pensions are not subject to MPAs.

New Fair Deal - HMT guidance on pension provision for workers whose employment is compulsorily transferred to the private sector when the services they work on are moved to private sector suppliers.

Normal Pension Age (NPA) - The age at which a pension scheme member can start taking pension benefits on a voluntary basis without any reductions. NPA is set in scheme rules. A member can retire voluntarily before NPA, as long as they are over their MPA, but will then face a reduction to their benefits.

Pensioner member - Individuals who are drawing a pension and who are mainly former employees. However, they may also include widows, widowers and other dependants of former active members.

Reformed scheme(s) - The reformed public service pension schemes introduced under the Public Service Pensions Act (Northern Ireland) 2014.

Survivor benefits - When an active or pensioner member dies, each scheme has a range of benefits that dependent children, a spouse, civil partner and sometimes an unmarried partner may receive instead. These vary across schemes.

Tapered protection - Offered to members between 10 and 13.5 or 14 years of Normal Pension Age on 31 March 2012, meaning they could stay in their existing schemes for a period ranging from a few months to several years after 2015. As with transitional protection, this was found to be unlawful discrimination by the Courts.

Transitional protection - Given to members within 10 years of Normal Pension Age on 31 March 2012, it meant they remained in their existing (legacy) scheme. This was found to be unlawful discrimination by the courts.

Annex C: Draft The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022

STATUTORY RULES OF NORTHERN IRELAND

2022 No. 0000

PUBLIC SERVICE PENSIONS

The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022

Made - - - - - *X th March 2022*

Coming into operation - *1st April 2022*

The Department of Finance makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1), 3(1), (2), (3), paragraph 1 of Schedule 2 and Schedule 3 to the Public Service Pensions Act (Northern Ireland) 2014⁽²⁾. (“the 2014 Act”).

In accordance with section 21(1) of the 2014 Act, the Department of Finance has consulted such persons as appear to the Department of Finance to be likely to be affected by these Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022.

(2) These Regulations come into operation on 1st April 2022 but regulation 3 has effect from 1st April 2015.

Amendment of the Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014

2. The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014⁽³⁾ are amended in accordance with regulations 3 to 6.

Amendment of regulation 121 (payment of lump sum death benefit)

3. In regulation 121(4), omit “if it is impractical to pay it”.

Amendment of regulation 142 (transfer payments made to other schemes or pension arrangements)

4. In regulation 142(4), for “91(2)” substitute “91(2A)”.

⁽²⁾ 2014 c.2 (N.I.). Section 3(2)(c) was inserted by section [84(12)] of the Public Service Pensions and Judicial Offices Act [2022 (c. x)].

⁽³⁾ S.R.2014/290. There are no relevant amendments to Schedule 4.

Amendment of Schedule 1 (payments for extra pension)

5.—(1) In paragraph 7 (added pension option exercisable by member) of Schedule 1, for sub-paragraph (5) substitute—

“(5) An option to make a lump sum payment for added pension may only be exercised if the member—

(a) either—

(i) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; or

(ii) is a transition member within the meaning of paragraph 1 of schedule 2; and

(b) has been provided with a statement of the amount of added pension (if paragraph 18 applies).”.

Amendment of Schedule 2 (transitional provisions)

6.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1 (interpretation - general)—

(a) in the definition of “closing date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS(NI), 31st March 2022;”;

(b) in the definition of “transition date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS(NI), 1st April 2022”.

(3) In sub-paragraph (3) of paragraph 3 (meaning of “tapered protection closing date”), after “is a date” insert “before 1st April 2022”.

(4) For sub-paragraph (2) of paragraph 9 (full protection members of the PCSPS(NI)) substitute—

“(2) P ceases to be a full protection member of the PCSPS(NI) on whichever of the following days occurs first—

(a) the day on which P ceases to be in pensionable service under the PCSPS(NI) unless sub-paragraph (3) or (4) applies; or

(b) 31st March 2022.”.

(5) In paragraph 16 (Fair Deal eligible persons transferred out on or before 31st March 2012)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

(a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or

(b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;

(b) in sub-paragraph (2)—

(i) for paragraph (b) (but not the “and” after it) substitute—

“(b) P begins service which is pensionable under the PCSPS(NI) as—

(i) an Article 3(3A) eligible person;

(ii) a civil servant; or

(iii) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, on a date (“P’s re-joining date”) after 31st March 2012;”;

(ii) at the end of paragraph (c)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS(NI) before P’s transfer date”;

(c) for sub-paragraph (3) substitute—

“(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—

(a) an Article 3(3A) eligible person;

(b) a civil servant; or

(d) a person serving in an employment or office listed in Schedule 1 of the 1972 Order,

- continuously after P’s re-joining date.”;
- (d) after sub-paragraph (6) insert—
“(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.
- (6) In paragraph 17 (Fair Deal eligible persons transferred out after 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
“(1) This paragraph applies if—
- (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
- (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
- (b) in sub-paragraph (2)—
- (i) for paragraph (d) (but not the “and” after it) substitute—
“(d) P begins service which is pensionable under the PCSPS(NI) as—
- (i) an Article 3(3A) eligible person;
- (ii) a civil servant; or
- (iii) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, on a date (P’s re-joining date) after P’s transfer date;”;
- (ii) at the end of paragraph (e)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS(NI) before P’s transfer date”;
- (c) for sub-paragraph (3) substitute—
“(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
- (a) an Article 3(3A) eligible person;
- (b) a civil servant; or
- (d) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, continuously after P’s re-joining date.”;
- (d) after sub-paragraph (6) insert—
“(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.
- (7) In paragraph 25 (Fair Deal eligible persons transferred out on or before 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
“(1) This paragraph applies if—
- (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
- (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
- (b) in sub-paragraph (2)—
- (i) for paragraph (b) (but not the “and” after it) substitute—
“(b) P begins service which is pensionable under the PCSPS(NI) as—
- (i) an Article 3(3A) eligible person;
- (ii) a civil servant; or
- (iii) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, on a date (“P’s re-joining date”) after 31st March 2012;”;
- (ii) at the end of paragraph (c)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS(NI) before P’s transfer date”;
- (c) for sub-paragraph (3) substitute—

- “(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
- (a) an Article 3(3A) eligible person;
 - (b) a civil servant; or
 - (d) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, continuously after P’s re-joining date.”;
- (d) after sub-paragraph (6) insert—
- “(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”.
- (8) In paragraph 26 (Fair Deal eligible persons transferred out after 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
 - “(1) This paragraph applies if—
 - (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
 - (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 of the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
 - (b) in sub-paragraph (2)—
 - (i) for paragraph (d) (but not the “and” after it) substitute—
 - “(d) P begins service which is pensionable under the PCSPS(NI) as—
 - (i) an Article 3(3A) eligible person;
 - (ii) a civil servant; or
 - (iii) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, on a date (P’s re-joining date) after P’s transfer date.”;
 - (ii) at the end of paragraph (e)(i) (and before the “; or”) insert “due to P being continuously employed to carry out functions or services related to their employment in the PCSPS(NI) before P’s transfer date”;
 - (c) for sub-paragraph (3) substitute—
 - “(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
 - (a) an Article 3(3A) eligible person;
 - (b) a civil servant; or
 - (d) a person serving in an employment or office listed in Schedule 1 of the 1972 Order, continuously after P’s re-joining date.”;
 - (d) after sub-paragraph (6) insert—
 - “(7) In this paragraph, “the transferred services” has the meaning given in regulation 16 (Fair Deal eligible persons).”

Sealed with the Official Seal of the Department of Finance on 00th March 2022

(L.S.)

Colette Heaney
A senior officer of the
Department of Finance

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014 (the 2014 Regulations) (S.R. 2014/290). The 2014 Regulations established a scheme for the payment of pensions and other benefits to civil servants and other eligible persons (“the alpha scheme”).

As part of the 2015 pension reforms, those members of the civil service (defined benefit) pension schemes who were within 10 years of their Normal Pension Age (NPA) on 31 March 2012 and who had active status at that point and on 1 April 2015 remained in the appropriate Section of the PCSPS(NI); this was referred to as transitional protection. In December 2018, the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the Government. In July 2019, the Government confirmed that it accepted that the Court of Appeal’s judgment had implications for the other public service schemes that had similar transitional arrangements, including the Civil Service Pension Arrangements.

In July 2021 the Public Service Pension and Judicial Offices (PSPJO) Bill was introduced into Parliament and extends to the devolved Northern Ireland Public Service Pension Schemes following the passing of a Legislative Consent Motion by the NI Assembly. The PSPJO Bill calls for all civil servants who continue in service from 1 April 2022 onwards to do so as members of alpha. The legacy PCSPS(NI) will be closed in relation to service after 31 March 2022, closing the remedy period, during which members in scope have a choice of benefits. This is known as the prospective remedy.

These Regulations make the amendments required to implement the prospective remedy, which requires moving all active members of the PCSPS(NI) (including partial retirees in active service) to alpha on 1 April 2022 and making consequential changes to the regulations, pursuant to the requirements of the PSPJO Bill. They also make some corrections and clarifications to the alpha scheme Regulations. These Regulations come into operation on 1st April 2022 but regulation 3 has effect from 1st April 2015.

Regulation 3 clarifies that payment of the lump sum death benefit is discretionary. This will bring alpha provisions into line with existing practice, the PCSPS(NI) and other public service pension schemes, and will achieve the intended effect in relation to inheritance tax. This amendment is not considered to have an adverse effect on members and will have retrospective effect from 1 April 2015. Section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014 (“the Act”) provides authority for the Regulations to take effect as from a date earlier than the making of these Regulations.

Regulation 4 corrects a cross reference to the wrong subsection of the Pension Schemes (Northern Ireland) Act 1993.

Regulation 5 removes the initial 12-month bar on making lump sum payments towards added pension for members transferring into alpha from the PCSPS(NI).

Regulation 6 amends Schedule 2 (transitional provisions) by not allowing any future accrual in PCSPS(NI) from 1 April 2022 for all classes of member in respect of service pensionable under civil service pension terms. This means that from 1 April 2022, all members of the civil service pension arrangements will only be able to accrue benefits in alpha and concurrently the PCSPS(NI) will close to accrual. Amendment to paragraphs 16, 17, 25 and 26 of Schedule 2 to make clear that in circumstances where transitional protection applied to people who returned to the civil Service pension arrangements by virtue of employment with an organisation admitted under the Government’s New Fair Deal policy, protection also applied to people who returned by virtue of employment in the civil service.

An impact assessment has not been produced for this Statutory Rule as no impact on the costs of business or the voluntary sector is foreseen.