

To: Chief Executives
Salaries and Wages
Human Resources
Pension Contacts
NIC-ICTU

Circular 06/2019
19 July 2019

At: All Employing Authorities

Dear Colleagues,

The Local Government Pension Scheme for Northern Ireland ("LGPS (NI)")

This Circular has been issued to highlight the following:

- The current Department for Communities consultation on proposed amendments to the LGPS (NI)
- Implementation of revised strain cost factors from 31 July 2019
- Advertising for new NILGOSC Committee Members.

The information in this Circular is based on NILGOSC's understanding of the proposed regulations and their implementation. Employers should refer to the consultation document for full detail on the proposed amendments.

1. The current Department for Communities consultation on proposed amendments to the LGPS (NI)

The Department published the above [consultation](#) on 8 July for a 12 week consultation period closing on 30 September 2019.

The key amendment, following a Supreme Court judgement in February 2017, removes the requirement to nominate a cohabiting partner for them to be entitled to a survivor's pension. The other proposed amendments are mainly technical, administrative or minor policy updates. A summary of the amendments categorised into those mainly affecting members, employers and minor technical/administration amendments is set out below. As expected, there is some overlap across the three categories and they should not be read in isolation.

1.1 Amendments affecting members

- Removes the requirement to nominate a cohabiting partner for them to be entitled to a survivor's pension. The Department has also proposed a new amendment going forward to remove the two-year qualifying period where the member and the cohabiting partner were able to marry or form a civil partnership. It is still necessary for them to be able to marry or form a civil partnership at the date of death. The two-year qualifying period remains in place for the other criteria. The proposed criteria are set out in the Appendix.
- Re-introduces the 30-day rule that requires employee and employer contributions to be paid for the first 30 days of a period of absence with permission. This will replace using Additional Pension Contracts (APCs) for the first 30 days absence with permission e.g. career breaks, breaks in service, unpaid leave etc.
- Clarifies that a previous regulation that stated an employer determines which of an employee's emoluments (apart from those specifically excluded by the Regulations) are pensionable has continued to apply.
- Allows NILGOSC to offer Voluntary Scheme Pays to those members who have incurred Annual Allowance tax charges and cannot use Mandatory Scheme Pays.
- Extends the statutory underpin giving final salary protection to those who have transferred in from other Public Service Pension Schemes.
- Confirms that a non-pensionable non-consolidated payment paid as part of an annual pay award is not pensionable.
- Clarifies that a retirement pension must be paid from age 75 even if the member remains in employment after that age.
- Confirms that all pension credit members can access their benefits from age 55.

1.2 Amendments affecting Employers

- Re-introduces the 30-day rule that requires employee and employer contributions to be paid for the first 30 days of a period of absence with permission. This will replace using Additional Pension Contracts (APCs) for the first 30 days absence with permission e.g. career breaks, breaks in service, unpaid leave etc. **Employers may need payroll software amendments to facilitate this change.**
- Confirms that Assumed Pensionable Pay (APP) can be based on notional pay if the calculated APP figure is materially higher or lower than normal pay.
- Clarifies that a previous regulation that stated an employer determines which of an employee's emoluments (apart from those specifically excluded by the Regulations) are pensionable has continued to apply.

- Allows NILGOSC to receive returns from an employer at regular periods of less than one year. This gives statutory permission to introduce monthly electronic returns of pay and contributions.
- Allows NILGOSC, with the Department's approval, to vary the pre-set exit date during a period of deferral of an exit valuation.
- Allows the Actuary to vary an employer's contributions between valuations if there has been a relevant change in its circumstances e.g. secured a guarantee.
- Confirms that a non-pensionable non-consolidated payment paid as part of an annual pay award is not pensionable.
- Clarifies that a retirement pension must be paid from age 75 even if the member remains in employment after that age.

1.3 Minor technical/administration amendments

- Allows payment of death benefits after two years.
- Removes the requirement that Additional Pension Contribution (APC) factors are gender specific. This will result in revised unisex APC factors.
- Clarifies that ill-health enhancements are included in the calculation of survivors' benefits.
- Clarifies that the LGPS (NI) is part of the Public Sector Transfer Club.
- Aligns the benefits relating to pre and post-2015 AVCs with the exception that pre-2015 AVCs retain a normal pension age of age 65 and saves the provisions relating to elections regarding AVCs made before 1 February 2003.
- Retrospectively lists Grant Maintained Integrated Schools as employing authorities that can be admitted to the Scheme.

1.4 The closing date of the consultation is 30 September 2019 and comments should be sent to lgpdconsultations@communities-ni.gov.uk. Full details are on the consultation page of the [Department's website](#).

2. Implementation of revised strain cost factors from 31 July 2019

2.1 Circular 04/2019 notified employers of forthcoming changes in early retirement strain cost factors. These will be implemented for early retirements with a leaving date on or after 31 July 2019. The actuary has advised that these updated unisex factors will generally result in a reduction in redundancy strain costs. However, employer costs will increase where consent is being given to draw benefits payable from the Rule of 85 age where this is reached before age 60. These factors will be reviewed following the outcome of the 2019 Scheme valuation.

3. Advertising for new NILGOSC Committee Members

3.1 At the end of August, the Department for Communities will be advertising to recruit several new NILGOSC Committee Members to fill vacancies that will arise over the next 12 months. The NILGOSC Committee is composed of a chairperson, two independent members, five employee representatives and five employer representatives. The new appointments will be for one independent member, four trade union (employee) representatives and five employer representatives. The term of office is usually for four years from appointment.

Further information on the appointments and recruitment process will be circulated once it becomes available.

If you have any questions regarding the content of this Circular, please contact either myself or any member of the Pensions Development Team.

Yours sincerely

A handwritten signature in black ink that reads "Zena Kee". The signature is written in a cursive, slightly slanted style.

Zena Kee
Pensions Manager

Appendix

Proposed retrospective criteria for Cohabiting Partner's Pension

A cohabiting partner is someone who NILGOSC is satisfied meets the following condition:

- a) The person has fulfilled the condition in paragraph (b) for a continuous period of at least two years on the date the member died;
- b) The condition is that:
 - (i) The member and the person are able to marry, or form a civil partnership with, each other¹;
 - (ii) The member and the person are living together as if they were a married couple or as if they were civil partners;
 - (iii) Neither the member nor the person is living with a third person as if they were a married couple or as if they were civil partners; and
 - (iv) Either the person is financially dependent on the member, or the member and the person are financially interdependent

¹ It is proposed that the two-year qualifying period will not apply to b(i) from 21 days after the commencement date of the regulations but will continue to apply to the other criteria.

NB. Cohabiting partner pensions only apply to the survivor of anyone who was any active member after 31st March 2009.



DfC

Department
for Communities

www.communities-ni.gov.uk

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2019

Consultation Document

This consultation document seeks views on proposed amendments to the Local Government Pension Scheme (Northern Ireland).

Comments should be sent by 30 September 2019 to:

**Department for Communities
Local Government and Housing Regulation Division
Level 4, Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast, BT2 7EG**

or email: LGPDConsultations@communities-ni.gov.uk

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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)”). | (or representatives of such persons) as appear to the Department likely to be affected. |
| 1.2 | The proposed amendments cover both the changes required by a Supreme Court judgment in relation to survivor benefits, and a number of technical amendments and minor policy updates. | 1.4 The closing date for submitting responses is 30 September 2019 . |
| 1.3 | Section 21(1) of the Public Service Pensions Act (NI) 2014 requires the Department to consult such persons | 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 The Supreme Court handed down a judgment on 8 February 2017 in relation to a decision not to award the Applicant a survivor's pension under the LGPS (NI) Regulations (Northern Ireland) 2009 ("the 2009 Regulations") upon the death of her cohabiting partner.
- 3.2 The Supreme Court concluded unanimously that the imposition of the nomination requirement in the 2009 Regulations had given rise to an unjustified difference in treatment of the Appellant as a surviving cohabiting partner and that she was entitled to receive a survivor's pension under the LGPS (NI).
- 3.3 The Department has identified the changes to legislation to give effect to the Supreme Court judgment and to remove the nomination requirement in existing LGPS (NI) Regulations for cohabiting partners to be entitled to a survivor's pension. These changes will be retrospective to allow for a review of previous cases as necessary.

3.4 The remaining criteria for a cohabiting partner's retrospective eligibility for survivor benefits will be:

- “(a) the person has fulfilled the condition in paragraph (b) for a continuous period of at least two years on the date the member died; and
- (b) the condition is that—
 - (i) the member and the person are able to marry, or form a civil partnership with, each other;
 - (ii) the member and the person are living together as if they were a married couple or as if they were civil partners;
 - (iii) neither the member or the person is living with a third person as if they were a married couple or as if they were civil partners; and
 - (iv) either the person is financially dependent on the member, or the member and the person are financially interdependent;”.

This meets the requirements of the court judgment.

3.5 Moving forward, from the time these regulations come into force, it is proposed to make a further amendment to these qualifying criteria to remove the two year period for 7 (b)(i) i.e. the ability to marry or form a civil partnership. It is proposed that this change should only apply going forward as it is not covered by the court order. **The other criteria would remain the same.** It would remain necessary for a member to be free to marry or form a civil partnership at the time of their death as, if they remain legally tied to another person, that person has the survivor rights. The purpose of this amendment is to ensure the fulfilment of the policy intent i.e. that where a member dies, those financially dependent on them at the time of their death should have access to financial support in proportion to the member's pension entitlement.

4. Other amendments

4.1 The proposed amendments in Part 2 of the draft Regulations make a number of drafting improvements that clarify the original policy intent and introduce a number of minor policy changes. These amendments cover the following areas-

- each member may now access their pension from age 55, subject to an actuarial reduction for early payment, should that member decide to do so (see regulations 43,47,92(b) and 92(e));
- the removal of the 2 year limit within which a death grant has to be paid – this reflects the repeal of legislation which stated that a payment had to be made within 2 years to be considered an authorised payment. This had previously meant that, in cases which could not be resolved within the 2 year limit, NILGOSC had to make the payment to the member’s personal representatives, something which had significant tax implications. The proposed amendment means that NILGOSC can take the necessary time to ensure that the payment goes directly to the intended recipient (see regulations 46,48, 50-52,55,56,63, 68,69 and 70);
- clarification of the definition of a pension credit member (see regulation 58);
- clarification of the contributions that members and employers make during absences from work (see regulation 60);
- clarification that, where a member is absent on reserve forces service leave, it is the Ministry of Defence who pays the employer contribution (see regulation 61(a));
- deletion of an incorrect reference to actuarial guidance (see regulation 61(c));
- removing the gender link from the factors used for Additional Pension contributions (see regulation 62);
- clarification that a non-consolidated non-pensionable payment made to a member resulting from the settlement of an annual pay award is excluded from pensionable pay (see regulation 64);
- permitting employers to adopt a revised reference figure for the calculation of assumed pensionable pay where it would otherwise be unfair (see regulation 65);
- clarification that a member must receive their pension from age

- 75 even if they remain in local government employment (see regulation 66(a));
- clarification that only active membership relating to that employment, in relation to a post being made redundant, is allowed to be considered in the calculation of early access to pension as part of a redundancy payment (see regulation 66(b));
- clarification that where a pension in payment is split through a pension sharing order, the person who is provided with the pension credit will not be able to take a tax-free lump sum from the benefit rights that are acquired. This reflects new tax legislation and is on the basis that when the member's ex-spouse or former civil partner's benefits first came into payment, that ex-spouse or former civil partner will have taken (or had the opportunity to take) a tax-free lump sum in respect of the benefits, so it would not be appropriate to allow a lump sum to be taken free of income tax from the pension credit rights. This applies regardless of whether a lump sum was actually taken by the pension debit member (see regulation 67);
- ensuring that the calculation of survivor benefits for partners and children of pensioner members includes any tier 1 or tier 2 ill-health enhancement (see regulation 71);
- correcting references which apply in respect of lifetime allowance statements (see regulation 72);
- providing for an amendment of the rates and adjustments certificate between valuations where there is material improvement in the employer's circumstances (see regulation 73);
- clarification that it is the employing authority's responsibility to determine which of the employee's emoluments are remuneration on which contributions are payable (see regulation 74);
- accommodating the faster exchange of information between the Committee and employing authorities (see regulation 75);
- clarification of the recipients to whom payments may be made under the scheme when a person dies (see regulation 76);
- making provision for the Scheme to comply with its membership obligations to the Public Sector Transfer Club (see regulation 78-81);
- amending the definition of "partner" (see regulation 81(b));
- inserting references to a grant maintained integrated school to ensure that this category of school

may be an admission body of the LGPS (NI). A new sub-paragraph will be inserted to ensure that an admission agreement may take effect on a day before it is executed (see regulations 36,38,40,45,54 and 82(a));

- removing a reference to a repealed provision regarding expense and allowances payable to the Committee (see regulation 83);
- clarification that the normal pension age in relation to deferred benefits in respect of membership that ceased before 1 October 2006, is age 65 (see regulation 85);
- clarification that a person who has been a deferred member accruing final salary benefits under previous LGPS (NI) Regulations, who then becomes an active member of the reformed LGPS (NI) without a disqualifying break in membership, may continue to accrue final salary benefits under the statutory underpin arrangements, if notification is given to the administering authority within a certain period of time (see regulation 86);
- ensuring that members of other public service pension schemes who are entitled to transitional protection under those schemes and who are continuing to accrue final salary

benefits can obtain final salary benefits within the LGPS (NI) if they transfer those benefits in and can benefit from the statutory underpin (see regulation 87);

- introducing a 12 month time limit (which may be extended at the discretion of the administering authority) if a former member of the Earlier Schemes takes up active membership of the Scheme and wishes to aggregate the benefits (see regulation 88);
- clarification that the term “contributions” includes additional contributions (see regulation 89);
- altering the administration of AVC benefits in regulation 19 (additional voluntary contributions) of the 2014 Regulations, so that the date the AVC arrangement was established is disregarded (see regulation 90);
- enabling the administering authority to offer members, at its discretion, the voluntary scheme pays facility where the value of the member’s accrued benefits exceeds the annual allowance (see regulation 91); and
- removing the requirement for employer consent for members aged between 55 and 60 to draw benefits under the 85 year rule (see regulation 92).

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.

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. Regulatory Impact Assessment

- 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.

9. Freedom of information – confidentiality of responses

- 9.1. The information you send us may need to be passed to colleagues within the Department for Communities in Northern Ireland (“the Department”).

questions, please contact Information Management Branch (IMB).

Email foi@communities-ni.gsi.gov.uk

- 9.2. To find out more about the general principles of Freedom of Information and how it is applied within the Department, please read Annex A and, if you have any further

- 9.3. IMB cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the **Freedom of Information Act**.

10. Alternative Format

- 10.1. Should you require a copy of this document in an alternative format, it can be made available on request in large print, disc, Braille and audio cassette. The Department’s text phone

number has also been included below to assist the hearing impaired. It may also be made available in minority languages for those not proficient in English.

11. Consultation responses

11.1. Please email your consultation response to: **lgpd@communities-ni.gov.uk**

11.2. Postal address-

**Local Government and Housing
Regulation Directorate
Level 4
Causeway Exchange
1-7 Bedford Street
Townparks
BELFAST
BT2 7EG**

11.3. Please ensure your response reaches the Department by **30 September 2019**.

11.4. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. The Department will acknowledge your response.

11.5. The following persons will be able to answer your queries in relation to the consultation.

Siobhan McKelvey - Tel: 028 9082 3409
Siobhan.mckelvey@communities-ni.gov.uk

William Dobbin – Tel: 028 9082 3360
William.dobbin@communities-ni.gov.uk

11.6 The Department will consider the responses received and publish a synopsis of those responses and the Departmental response on the Departmental website.

11.7 In line with good practice and sustainable development this document has been published electronically.

12. How we consult - Consultation principles

12.1. 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 Northern Ireland Departments on conducting consultations.

Annex A: Assessment Criteria

The Freedom of Information Act 2000 – confidentiality of consultations

1. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.
2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have a responsibility to decide whether any information provided by you in response to this consultation including information about your identity, should be made public or be treated as confidential.
3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that-
 - the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
 - the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature;
 - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.
4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at www.informationcommissioner.gov.uk).

LIST OF CONSULTEES

1. All Members of the Northern Ireland Legislative Assembly
2. All Northern Ireland political parties, MPs and MEPs
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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2019 No. 00

LOCAL GOVERNMENT

**The Local Government Pension Scheme (Amendment)
Regulations (Northern Ireland) 2019**

Made - - - - - ***

Coming into operation - - - - - ***

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, 3 and 25 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014(c).

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.

Citation, commencement, interpretation and retrospection

1.—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2019 and except as provided for by paragraph (2), shall come into operation on XX month year.

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

- (a) regulations 2, 3 and 5 to 20 from 1st April 2009;
- (b) regulation 4 from 31st December 2009;
- (c) regulations 35 and 36 from 19th February 1990;
- (d) regulations 37 and 38 from 1st March 1993;
- (e) regulations 39 and 40(a) from 1st August 2000;
- (f) regulation 40(b) from 2nd April 2001;
- (g) regulations 44 and 45(a) from 1st February 2003;
- (h) regulation 45(b) from 1st May 2005;
- (i) regulations 53 and 54 from 1st April 2009; and
- (j) regulations 21 to 34 and 69(b) and 82(a) from 1st April 2015.

(a) Formerly known as the Department for Social Development; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.), Article 8 of and Schedule 5 to the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76) transferred functions to the Department for Communities which were previously exercisable by the Department of the Environment.

(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.).

(3) In these Regulations—

“the 1981 Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(a);

“the 1992 Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1992(b);

“the 2000 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(c);

“the 2002 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(d);

“the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(e);

“the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009(f);

“the 2009 Transitional Regulations” means the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009(g);

“the Principal Regulations” means The Local Government Pension Scheme Regulations (Northern Ireland) 2014(h); and

“the 2014 Transitional Regulations” means The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014(i).

PART 1

Survivor Benefits Amendments

Amendment of the Benefits Regulations

2.—(1) Regulations 3 to 8 have effect in relation to the Benefits Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The Benefits Regulations are amended in accordance with regulations 3 to 8.

3. In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “admission agreement fund” insert—

““cohabiting partner” means a person whom the Committee is satisfied fulfils the following condition—

(a) the person (P) has fulfilled the condition in paragraph (b) for a continuous period of at least two years on the date the member (M) died;

(a) S.R. 1981 No. 96 as amended by S.R. 1982 No. 58, S.R. 1984 No. 175, S.R. 1984 No. 355, S.R. 1985 No. 315, S.R. 1986 No. 294, S.R. 1989 No. 345, S.R. 1991 No. 19, S.R. 1991 No. 418 and S.R. 1991 No. 492.

(b) S.R. 1992 No. 547 as amended by S.R. 1998 No. 41, S.R. 1998 No. 133, S.R. 1998 No. 337, S.R. 1999 No. 218 and S.R. 2000 No. 23.

(c) S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115, S.R. 2002 No. 353, S.R. 2009 No. 34, S.R. 2014 No. 189 and S.R. 2016 No. 128.

(d) S.R. 2002 No. 352 as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R. 2005 No. 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479, S.R. 2009 No. 34, S.R. 2016 No. 128 and S.R. 2016 No. 329.

(e) S.R. 2009 No. 32 as amended by S.R. 2010 No. 164, S.I. 2010/234, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 85, S.R. 2012 No. 183, S.R. 2013 No. 71, S.R. 2014 No. 189, S.R. 2016 No. 128 and S.R. 2016 No. 329.

(f) S.R. 2009 No. 33 as amended by S.R. 2010 No. 164, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 183, S.R. 2014 No. 189, S.R. 2016 No. 128 and S.R. 2016 No. 329.

(g) S.R. 2009 No. 34 as amended by S.R. 2010 No. 410, S.R. 2013 No. 71 and S.R. 2014 No. 189.

(h) S.R. 2014 No. 188 as amended by S.R. 2015 No. 77, S.R. 2015 No. 162 and S.R. 2016 No. 128.

(i) S.R. 2014 No. 189 as amended by S.R. 2015 No. 162, S.R. 2016 No. 128 and S.R. 2016 No. 329.

- (b) the condition is that—
 - (i) M and P are able to marry, or form a civil partnership with, each other;
 - (ii) M and P are living together as if they were a married couple or as if they were civil partners;
 - (iii) neither M nor P is living with a third person as if they were a married couple or as if they were civil partners; and
 - (iv) either P is financially dependent on M, or M and P are financially interdependent; and
 - (c) in this definition “member” means an active member or a former active member who has become a deferred or pensioner member in accordance with these Regulations or the 2009 Regulations.”; and
 - (b) omit the definition of “nominated cohabiting partner”.
4. In regulation 14A(a) (election to pay additional contributions: survivor benefits)—
 - (a) in paragraph (1) for “nominated cohabiting partner (within the meaning of regulation 25)” substitute “cohabiting partner”;
 - (b) omit paragraph (2); and
 - (c) in paragraph (5) omit “nominated”.
 5. In regulation 24(1) (survivor benefits: active members) omit “nominated”.
 6. Omit regulation 25 (meaning of nominated cohabiting partner).
 7. In regulation 33(1) (survivor benefits: deferred members) omit “nominated”.
 8. In regulation 36(1) (survivor benefits: pensioner members) omit “nominated”.

Amendment of the Administration Regulations

- 9.—(1) Regulations 10 to 16 have effect in relation to the Administration Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.
- (2) The Administration Regulations are amended in accordance with regulations 10 to 16.
10. In regulation 42(2) (exclusion of rights to return of contributions) omit “nominated”.
11. In regulation 45B(1)(b) (survivor benefits: guaranteed minimum pension) omit “nominated”.
12. In regulation 54(2)(a) (right to apply for an appointed person to review a decision) omit “nominated”.
13. In regulation 72(5)(b) (transfer of sums from the fund to compensate for former member’s misconduct) omit “nominated”.
14. In regulation 76(5)(a) (contracting-out requirements affecting transfers out) for “nominated co-habiting” substitute “cohabiting”.
15. In regulation 81(2)(b) (community scheme transferees) omit “nominated”.
16. In Schedule 1 (interpretation)—
 - (a) after the definition of “cancelling notice” insert—
 - ““cohabiting partner” has the meaning given in regulation 1 (citation, commencement and interpretation) of the Benefits Regulations;”;
 - (b) omit the definition of “nominated cohabiting partner”.

(a) This regulation was inserted into S.R. 2009 No. 32 by regulation 15 of S.R. 2010 No. 410.
 (b) This regulation was inserted into S.R. 2009 No. 32 by regulation 40 of S.R. 2010 No. 410.

Amendment of the 2009 Transitional Regulations

17.—(1) Regulations 18 to 20 have effect in relation to the 2009 Transitional Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The 2009 Transitional Regulations are amended in accordance with regulations 18 to 20.

18. In regulation 1(3) (citation, commencement, interpretation and retrospectioin)—

(a) after the definition of “the Benefits Regulations” insert—

““cohabiting partner” has the meaning given in regulation 1 (citation, commencement and interpretation) of the Benefits Regulations;”; and

(b) omit the definition of “nominated cohabiting partner”.

19. In regulation 3(4) (membership accrued before 1st April 2009: active members) omit “nominated”.

20. In Schedule 5 (transitional and transitory provisions and savings) in paragraph 4(3), in the definition of “benefit” omit “nominated”.

Amendment of the Principal Regulations

21. The Principal Regulations are amended in accordance with regulations 22 to 31.

22. In regulation 21(2) (exclusion of rights to return of contributions) omit “nominated”.

23. In regulation 41(1) (survivor benefits: partners of active members) omit “nominated”.

24. Omit regulation 42 (meaning of “nominated co-habiting partner”).

25. In regulation 47(1) (survivor benefits: partners of deferred members) omit “nominated”.

26. In regulation 52(1) (survivor benefits: partners of pensioner members) omit “nominated”.

27. In regulation 58(8) (guaranteed minimum pensions) omit “nominated”.

28. In regulation 84(2)(a) (right to apply for an appointed person to review a decision) omit “nominated”.

29. In regulation 109(4)(a) (contracting-out requirements affecting transfers out) omit “nominated”.

30. In regulation 114(2)(b) (EU scheme transfers) omit “nominated”.

31. In Schedule 1 (interpretation)—

(a) before the definition of “the Committee” insert—

““cohabiting partner” means a person whom the Committee is satisfied fulfils the following condition—

(a) the person (P) has fulfilled the condition in paragraph (b) for a continuous period of at least two years on the date the member (M) died;

(b) the condition is that—

(i) M and P are able to marry, or form a civil partnership with, each other;

(ii) M and P are living together as if they were a married couple or as if they were civil partners;

(iii) neither M nor P is living with a third person as if they were a married couple or as if they were civil partners; and

(iv) either P is financially dependent on M, or M and P are financially interdependent; and

(c) in this definition—

- (i) “member” means an active member or a former active member who has become a deferred or pensioner member in accordance with these Regulations or the 2009 Regulations; and
 - (ii) the qualifying time period, under paragraph (a), of a continuous period of at least two years on the date the member died as it applies in relation to the condition in paragraph (b)(i) (ability to marry or form a civil partnership) no longer applies from [DN date to be entered when known – the 21 days after the commencement date of these amending Regulations] XX Month 2019;”;
- (b) omit the definition of “nominated co-habiting partner”; and
- (c) in the definition of “partner” omit “nominated”.

Amendment of the 2014 Transitional Regulations

32. The 2014 Transitional Regulations are amended in accordance with regulations 33 and 34.

33. In regulation 17(7)(c) (survivor benefits) omit “nominated”.

34. In paragraph 4(3) of Schedule 5 (transitional and transitory provisions and savings), in the definition of “benefit” for “nominated cohabiting partner (as defined in regulations 42 of the 2014 Regulations)” substitute “cohabiting partner”.

PART 2

Minor amendments

Amendment of the 1981 Regulations

35.—(1) Regulation 36 has effect in relation to the 1981 Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The 1981 Regulations are amended in accordance with regulation 36.

36. For regulation 13(4)(e) (admission of other persons to participation in superannuation benefits), substitute—

“(e) the managers of a voluntary school or grant maintained integrated school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a).”.

Amendment of the 1992 Regulations

37.—(1) Regulation 38 has effect in relation to the 1992 Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The 1992 Regulations are amended in accordance with regulation 38.

38. In regulation B5(10)(e) (power to admit employees of other bodies), after “school” insert “or grant maintained integrated school”.

Amendment of the 2000 Regulations

39.—(1) Regulations 40 to 43 have effect in relation to the 2000 Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The 2000 Regulations are amended in accordance with regulations 40 to 43.

(a) S.I. 1986/594 (N.I. 3).

40. In regulation B6(a) (agreements to enable employees of non-LGPS employers to be members (“admission agreements”))—

- (a) in paragraph (9)(e)(b), after “school” insert “or grant maintained integrated school”; and
- (b) in paragraph (3)(g)(c), after “school” insert “or grant maintained integrated school”.

41. In regulation D11 (entitlement to deferred retirement benefits)—

- (a) in paragraph (2)(c), for “employing authority” substitute “the Committee” and omit “with the agreement of the Committee,”;
- (b) in paragraph (2)(e) omit “, has ceased to be employed in local government employment”;
- (c) in paragraph (4)(a) after “on” insert “or after”; and
- (d) omit paragraph (4)(b).

42. In regulation D13 (reduction of pensions payable early by virtue of elections etc.)—

- (a) in paragraph (2) for “by the appropriate percentage for the member’s pension advancement period” substitute “in accordance with guidance issued by the Government Actuary”; and
- (b) omit paragraphs (3) to (5).

43. After regulation N9(1)(d) (payment of benefits), insert—

“(1A) A pension credit member may apply in writing to the Committee for the early payment of benefits from age 55 up to normal benefit age and such benefits must be reduced in accordance with guidance issued by the Government Actuary.”.

Amendment of the 2002 Regulations

44.—(1) Regulations 45 to 48 have effect in relation to the 2002 Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The 2002 Regulations are amended in accordance with regulations 45 to 48.

45. In regulation 4(e) (employees of non-Scheme employers: community admission bodies)—

- (a) in paragraph (3)(g)(f), after “school” insert “or grant maintained integrated school”;
- (b) in paragraph (2)(f)(g), after “school” insert “or grant maintained integrated school”;

46. Omit paragraph (7) of regulation 41 (death grants).

47. After regulation 140(1) (payment of benefits) insert—

“(1A) A pension credit member may apply in writing to the Committee for the early payment of benefits from age 55 up to normal benefit age and such benefits must be reduced in accordance with guidance issued by the Government Actuary.”.

48. Omit paragraph (5) of regulation 141 (death grants).

Amendment of the Benefits Regulations

49.—(1) Regulations 50 to 52 have effect in relation to the Benefits Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

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- (a) This regulation was substituted by regulation 3 of S.R. 2001 No. 64.
 - (b) Regulation B6(9)(e) was effective from 1st August 2000 to 1st April 2001 at which point it was replaced by regulation B6(3)(g) by S.R. 2001 No. 64 - Regulation 3.
 - (c) Regulation B6(3)(g) was effective from 2nd April 2001 to 31st January 2003.
 - (d) This regulation was inserted into S.R. 2000 No. 177 by regulation 2 of S.R. 2001 No. 61.
 - (e) This regulation was substituted by regulation 3 of S.R. 2005 No. 206.
 - (f) Regulation 4(3)(g) was effective from 1st February 2003 to 30 April 2005 at which point it was replaced by regulation 4(2)(f) by S.R. 2005 No. 206 - Regulation 3.
 - (g) Regulation 4(2)(f) was effective from 1st May 2005 to 31st March 2009.

(2) The Benefits Regulations are amended in accordance with regulations 50 to 52.

50. Omit paragraph (5) of regulation 23 (death grants: active members).

51. Omit paragraph (4) of regulation 32 (death grants: deferred members).

52. Omit paragraph (4) of regulation 35 (death grants: pensioner members).

Amendment of the Administration Regulations

53.—(1) Regulations 54 to 56 have effect in relation to the Administration Regulations to the extent that they continue in operation by virtue of the 2014 Transitional Regulations.

(2) The Administration Regulations are amended in accordance with regulations 54 to 56.

54. In regulation 4(2)(f) (employees of community admission bodies), after “school” insert “or grant maintained integrated school”.

55. Omit paragraph (10)(a) of regulation 22 (use of accumulated value of AVCs and SCAVCs).

56. Omit paragraph (3) of regulation 92 (death grants: pension credit members).

Amendment of the Principal Regulations

57. The Principal Regulations(b) are amended in accordance with regulations 58 to 83.

58. After regulation 10(1) (pension credit members and survivor members) insert—

“(1A) A reference to a pension credit member is always a reference to that member before benefits come into payment; at that point the pension credit member becomes a pensioner member.”.

59. In regulation 13 (contributions during absence from work) after paragraph 3 insert—

“(3A) An active member shall pay contributions under regulation 11 (contributions) or 12 (temporary reduction in contributions) during an absence from work with the permission of the member’s employing authority (otherwise than because of illness or injury) in accordance with regulation 16A (contributions during absences with permission).”.

60. After regulation 16 (contributions during absence for illness or injury) insert—

“Contributions during absences with permission

16A. An active member who is absent from work with permission from the member’s employing authority and receiving reduced pay or no pay—

(a) shall pay contributions in accordance with regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) on the pensionable pay the member would have received but for the member’s absence; and

(b) may continue to pay APCs, AVCs or SVAVCs that the member was paying prior to the period of absence,

where the absence, is for a period of 30 consecutive days or less, in respect of the period of that absence; or is for a period longer than 30 consecutive days, in respect of the first 30 days of that absence only.”.

61. In regulation 17 (employing authority contributions during absence)—

(a) in paragraph (3)(b) after “are payable” insert “by the Ministry of Defence”;

(b) after paragraph (3) insert—

(a) This paragraph was inserted into S.R. 2009 No. 33 by regulation 20(e) of S.R. 2012 No. 183.

(b) S.R. 2014 No. 188; those Regulations have been amended by S.R. 2015 No. 77, S.R. 2015 No. 162, and S.R. 2016 No. 128

“(3A) Where an active member is absent from work under regulation 13(4)(c) and makes contributions under regulation 16A the employing authority shall make contributions in accordance with regulation 73(4) for the same period as the active member makes contributions under regulation 16A.”; and

- (c) in paragraph (6)(a) omit “, which amount shall be calculated in accordance with actuarial guidance issued by the Department where the amount of pensionable remuneration cannot be readily determined”.

62. For regulation 18(7) (additional pension contributions), substitute—

“(7) The amount of the contributions to be paid in respect of arrangements under this regulation is to be determined in accordance with actuarial guidance issued by the Department based on the age of the active member at the time the arrangements commence.”.

63. In regulation 19 (additional voluntary contributions)—

- (a) in paragraph (13) for “paragraphs (12) or (14)” substitute “paragraph (12)”; and
- (b) omit paragraph (14).

64. In regulation 22(2) (meaning of “pensionable pay”)—

- (a) at the end of sub-paragraph (h) omit “or”;
- (b) at the end of sub-paragraph (i) for “leave.” substitute “leave; or”; and
- (c) after sub-paragraph (i) insert—

“(j) any non-consolidated non-pensionable payment paid to a member as part of an annual pay award.”.

65. In regulation 23(b) (assumed pensionable pay)—

- (a) in paragraph (4), for “Subject to paragraph (4A)” substitute “Subject to paragraphs (4A), (5A) and (5B)”; and
- (b) after paragraph (5) insert—

“(5A) Where the pensionable pay received by a member during any period specified in paragraph (4)(a)(i) or (4)(b)(i) was, in the opinion of the employing authority, materially different than the level of pensionable pay that the member normally received, for the purposes of this regulation the employing authority may substitute for the pensionable pay the member received, a revised level of pensionable pay to reflect the level of pensionable pay that the member would normally have received.

(5B) In determining what the level of pensionable pay a member normally receives for the purposes of paragraph (5A) an employing authority must have regard to the level of pensionable pay received by a member in the previous 12 months.”.

66. In regulation 31 (retirement benefits)—

- (a) after paragraph (3) insert—

“(3A) A member who is an employee in local government employment on the day before attaining age 75 must have their retirement pension paid from age 75 even if the member remains in local government employment beyond that age.”; and

- (b) in paragraph (7)(b) for “that employment” substitute “that active member’s pension account in respect of that employment”.

67. For regulation 34(5)(a) (election for lump sum instead of pension) substitute—

“(a) a pension credit where, on the date upon which the pension credit member becomes entitled to the pension credit, the member of the Scheme subject to the

(a) Regulation 17(6) was substituted by regulation 5 of S.R. 2016 No. 128.

(b) Regulation 23 was amended by regulation 8 of S.R. 2016 No. 128.

corresponding pension debit has an actual (rather than a prospective) right to payment of the retirement pension under the Scheme; or”.

68. Omit paragraph (4) of regulation 40 (death grants: active members).

69. In regulation 46 (death grants: deferred members and pension credit members)—

- (a) omit paragraph (4); and
- (b) for paragraph (5) substitute—

“(5) This regulation shall apply to pension credit members as it applies to deferred members, subject to paragraph (6).

(6) Where a person entitled to a pension credit dies before the Committee awards a pension credit, the calculation of the death grant under paragraph (3), shall be modified so that the multiplier is three.”.

70. Omit paragraph (5) of regulation 51 (death grants: pensioner members).

71. In regulations 52(4)(a), 54(3)(a), 54(4)(a), 55(3)(a) and 55(4)(a) (survivor benefits: partners and children of pensioner members) after “earned pension” insert “(including any amount added under regulations 39(1)(a) or 39(2)(a) (enhancement of member’s tier 1 and tier 2 ill-health benefits))”.

72. For regulation 57(2) (limit on total amount of benefits payable) substitute—

“(2) In this regulation “lifetime allowance” is to be construed in accordance with section 218 of, and Schedule 36 to, the 2004 Finance Act, and section 44 of, and Schedule 6 to the Finance Act 2014(a) and, where applicable, is to include primary protection, enhanced protection, fixed protection or individual protection within the meaning of those provisions.”.

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

- (a) after paragraph (12) insert—

“(12A) Where in the opinion of the Committee there is a relevant change in circumstances of an employing authority, the Committee may, with the approval of the Department, vary the date at which an actuarial valuation and exit certificate is determined under paragraph (12).”; and

- (b) after paragraph (13D)(b) insert—

“(13E) Where in the opinion of the Committee there has been a relevant change in the circumstances of an employing authority (including an admission body), the Committee may with the agreement of the employing authority obtain from an actuary a certificate specifying the percentage or amount by which in the actuary’s opinion it is appropriate that:

- (a) the contribution at the common rate of employer’s contribution should be adjusted; or
- (b) any individual adjustment should be made or any prior individual adjustment should be increased or reduced in respect of that employing authority.

(13F) Where the actuary is producing a certificate under paragraph (13E), the actuary shall take into account the current version of the Committee’s funding strategy statement and any other matter which the actuary considers relevant.

(13G) A relevant change in circumstances for the purpose of paragraph (13E) includes any one or more of the following:

- (a) the employing authority, since the date of the existing rates and adjustments certificate, has secured a guarantee in a form satisfactory to the Committee of its

(a) 2014 c.26

(b) Regulations 70(13A) to (13D) were inserted by regulation 19(b) of S.R. 2016 No .128.

entire liabilities to the pension fund from a Department which is established by or under any enactment and where that enactment enables the Department to make financial provision for that employing authority;

- (b) the employing authority, since the date of the existing rates and adjustments certificate, has provided security, in a legally binding form satisfactory to the Committee, for its entire liabilities to the pension fund;
- (c) an assessment carried out to the satisfaction of the Committee and taking account of actuarial advice, of the level of risk arising on the premature termination of the provision of service or assets by reason of insolvency, winding up or liquidation of the admission body demonstrates that the risk has reduced significantly since the existing certificate was issued;
- (d) at the time that the existing rates and adjustments certificate was obtained there were circumstances which in the opinion of the Committee made it likely that the employing authority would become an exiting employer but there has been a change in those circumstances so that in the opinion of the Committee it is likely that the employing authority's participation in the scheme will be indefinite; or
- (e) there was an error and/or omission in the information provided to the actuary for the purposes of calculating the existing rates and adjustment certificate, which in the opinion of the actuary has had a significant impact upon the contributions certified for that employing authority, or where there has been a substantive or typographical error in the existing rates and adjustments certificate.”.

74. In regulation 80(3) (first instance decisions - general) at the end insert “including which of the employee’s emoluments are remuneration on which contributions are payable”.

75. After regulation 90(3) (exchange of information) insert—

“(3A) The Committee may, in respect of one or more employing authorities, determine that the statement referred to in paragraph (3) shall be provided at regular intervals of periods of less than one year and where it so determines—

- (a) the Committee shall notify in writing each relevant employing authority of the revised intervals at which the statement is to be provided; and
- (b) each employing authority so notified shall provide the statement within one month of the expiry of each of the revised intervals, containing the information in respect of that period.”.

76. For regulation 92(2) (payments due in respect of deceased persons) substitute—

“(2) The Committee may, at its absolute discretion, pay the whole or part of the amount due from the pension fund to a person’s personal representatives, any person or persons appearing to the Committee to be beneficially entitled to the estate or any person appearing to the Committee to have been a relative or dependent of the person at any time.”.

77. For regulation 96 (joint liability in respect of annual allowance charge) substitute—

“Annual allowance charge

96.—(1) This regulation applies where—

- (a) a member gives notice to the Committee of joint and several liability under section 237B (liability of scheme administrator) of the 2004 Finance Act in respect of the member’s annual allowance charge; or
- (b) the Committee satisfies all or part of a member’s liability to the annual allowance charge on a voluntary basis(a).

(a) See S.I. 2011/1791.

(2) Where the member's annual allowance charge is met by the pension fund, the Committee shall reduce the value of the member's rights accrued under the Scheme in accordance with actuarial guidance issued by the Department.”.

78. In regulation 108 (rights to payments out of the fund)—

(a) in paragraph (1) for “Chapter 4 or 5 of Part 4” substitute “Chapters 1 or 2 of Part 4ZA(a)”; and

(b) after paragraph (1) insert—

“(1A) Where a transfer under paragraph (1) is a Club Transfer, the Committee must comply with the provisions in the Club Memorandum in relation to that transfer.”.

79. In regulation 112 (inward transfers of pension rights), at the end insert—

“(8) Where a relevant transfer is a Club Transfer, the Committee must comply with the provisions in the Club Memorandum in relation to that transfer.”.

80. In regulation 113 (effect of acceptance of transfer value) for paragraph (2) substitute—

“(2) The calculation of the appropriate amount of earned pension for the purposes of the paragraph (1) is—

(a) in the case of a transfer of employment between members of the Public Sector Transfer Club, in accordance with the Club Memorandum; and

(b) in any other case, in accordance with actuarial guidance issued by the Department.
”.

81. In Schedule 1(b) (interpretation)—

(a) after the definition of “children's pension” insert—

““Club Memorandum” means—

(a) in respect of a Club Transfer completed before 1st April 2015, the memorandum published by the Cabinet Office under the title “The Public Sector Transfer Club – Memorandum by the Cabinet Office – effective from 1st March 2012;

(b) in respect of a Club Transfer completed in the period from 1st April 2015 to 28th February 2017, the memorandum published by the Cabinet Office under the title “The Public Sector Transfer Club – Memorandum by the Cabinet Office – effective from 1st April 2015; and

(c) in respect of a Club Transfer completed on or after 1st March 2017, the memorandum published by the Cabinet Office under the title “The Public Sector Transfer Club – Memorandum by the Cabinet Office – effective from 1st March 2017(c);

“Club Transfer” means a transfer of employment between members of the Public Sector Transfer Club;”;

(b) in the definition of “partner” omit “in relation to an active member”;

(c) after the definition of “permanently incapable” insert—

““Public Sector Transfer Club” means the arrangement approved by the Department and detailed in the Club Memorandum as providing reciprocal arrangements between the Scheme

(a) Part 4ZA was inserted into the Pension Schemes Act (Northern Ireland) 1993 (c. 49) by section 67 of and Schedule 4, Part 2, paragraphs 49 and 50, to the Pension Schemes Act 2015 (c. 8).

(b) There are amendments to Schedule 1 which are not relevant to these Regulations.

(c) The Club Memorandum is published on the Cabinet Office website and can be accessed at the following addresses-
http://lgpsregs.org/timelinereg/UK%20Wide%20Guidance/Public_Sector_Transfer_Club_Mar2012.pdf
<http://www.civilservicepensionscheme.org.uk/media/95419/club-memorandum-december-2015.pdf>
<http://www.civilservicepensionscheme.org.uk/media/213390/club-memorandum-march-2017.pdf> and hard copies can be obtained from: The Secretary, Public Sector Transfer Club, Cabinet Office, Lower Ground Floor, Priestley House, Priestley Road, Basingstoke, Hampshire RG24 9NW.

and other registered occupational pension schemes for making and receiving transfer value payments;” and

(d) for the definition of “revaluation adjustment” substitute—

““revaluation adjustment” means—

- (a) in the case of a balance transferred under a Club Transfer, the adjustment that would have applied to that balance if it had not been transferred; and
- (b) in any other case the percentage specified as the change in prices in the relevant Treasury Order made under section 9(2) of the Public Service Pensions Act (Northern Ireland) 2014 which applied to a sum in a pension account at the beginning of the next scheme year;”.

82. In Schedule 2 (admission agreements with admission bodies)—

(a) in paragraph 2(1)(f) of Part 1 (admission bodies), after “school” insert “or grant maintained integrated school”; and

(b) after paragraph 15 insert—

“(16) An admission agreement may take effect on a date before it is executed.”.

83. In paragraph 3(2) of Part 3 (expense and allowances payable by the Committee) of Schedule 3 (the committee: preliminary provisions) omit “under section 36 of the Local Government Act (Northern Ireland) 1972”.

Amendment of the 2014 Transitional Regulations

84. The 2014 Transitional Regulations(a) are amended in accordance with regulations 85 to 92.

85. In regulation 3 (membership before 1st April 2015) after paragraph 6 insert—

“(6A) Notwithstanding paragraph (1)(a), where deferred benefits are aggregated in accordance with paragraph (6), the normal pension age in relation to deferred benefits in respect of membership that ceased before 1st October 2006, is age 65.”.

86. For regulation 5(5) (membership of the scheme) substitute—

“(5) A person who was a deferred member of one of the earlier Schemes whose benefits under those Schemes have not come into payment and who becomes an active member of the Scheme by virtue of regulation 3(1) (active membership) of the 2014 Regulations without a disqualifying break, may choose, by notice in writing to the Committee to be treated as if he or she had become an active member of the Scheme by virtue of paragraph (1)—

- (a) within 12 months of becoming a member of the Scheme; or
- (b) within such longer period as the employing authority permits.”.

87. In regulation 9 (transfers)—

(a) in paragraph (1)—

(i) omit “before 1st April 2015”; and

(ii) at the end, insert “since ceasing active membership in the Scheme from which the transfer payment is received”; and

(b) after paragraph (1) insert—

“(1A) Regulation 4 (statutory underpin) applies to a person of the description in paragraph (1) as if that person had been an active member of the 2009 Scheme in respect of the service in the different public service pension scheme.”.

88. In regulation 9A(a) (aggregation adjustments etc.) for paragraph (6) substitute—

(a) S.R. 2014 No. 189 as amended by S.R. 2015 No. 162, S.R. 2015 No. 128 and S.R. 2016 No. 329.

“(6) A member with deferred benefits relating to the Earlier Schemes, who did not become a member of the 2014 Scheme by virtue of regulation 5(1) (membership of the 2014 Scheme), but who subsequently becomes an active member of the 2014 Scheme may—

- (a) within 12 months of the active member’s pension account being opened; or
- (b) such longer period as the Committee permits,

elect to receive a transfer value payment in relation to the deferred benefits to be credited to the active member’s pension account to purchase earned pension in accordance with actuarial guidance issued by the Department.”.

89. In regulation 13(2) (contributions) after “is entitled to a refund of contributions” insert “(including additional contributions)”.

90. In regulation 14 (additional contributions)—

- (a) omit paragraph (1)(b);
- (b) for paragraph (1)(d) substitute—

“(d) regulation 14 (election in respect of additional pension) and regulation 14A (election to pay additional contributions: survivor benefits) of the Benefits Regulations and regulations 19 (payment of additional regular contributions (ARCs)), 20 (discontinuance of ARCs), regulation 20A (payment of additional contributions: survivor benefits (ASBCs)) and 20B (discontinuance of ASBCs) of the Administration Regulations**(b)** as they apply to a member who has elected before 1st April 2015 to pay additional contributions under those regulations.”; and

- (c) after paragraph (2) insert—

“(2A) Regulation 19 of the 2014 Regulations (additional voluntary contributions) applies to an AVC arrangement entered into before 1st April 2015 as it applies to an AVC arrangement entered into on or after that date save that—

- (a) the normal pension age in an AVC arrangement entered into before 1st April 2015 is the normal retirement age under the 2009 Scheme; and
- (b) regulation 68(8) of the 2002 Regulations (persons making elections in relation to AVC’s prior to 1st February 2003 continues to have effect in relation to persons of the description in that regulation.”.

91. For regulation 15(1) (annual allowance) substitute—

“**15.**—(1) The Committee may adjust the member’s benefits accrued within the earlier Schemes in accordance with actuarial guidance issued by the Department, where—

- (a) a member gives notice to the Committee of joint and several liability under section 237B (liability of scheme administrator) of the 2004 Finance Act in respect of the member’s annual allowance charge; or
- (b) the Committee satisfies all or part of a member’s liability to the annual allowance charge on a voluntary basis**(c)**.”.

92. In Schedule 3**(d)** (the 85 year rule: transitional provisions and savings)—

- (a) in paragraph 1(1)(a) after “the Benefits Regulations” insert “if the member is aged 60 or over at the date of early retirement”;
- (b) after paragraph 1(1)(a) insert—

“(aa) regulation 30(1) (choice of early payment of pension) of the Benefits Regulations, if the member is aged 55 or over but aged under 60 at the date of

(a) Regulation 9A was inserted by regulation 28 of S.R. 2016 No. 128.
(b) Regulations 20A and 20B were inserted by S.R. 2010 No. 410.
(c) See S.I. 2011/1791.
(d) There are amendments to Schedule 3 which are not relevant to these Regulations.

early retirement and the former employing authority agrees that paragraph 1(3) should apply;”;

(c) in paragraph 1(1)(c) after “of the 2014 Regulations” insert “, or regulation 30(1) (choice of early payment of pension) of the Benefits Regulations;”;

(d) after paragraph 1(1)(c) insert—

“(d) regulation 33(1) (other early leavers: deferred retirement benefits and elections for early payment) of the 2002 Regulations if the member is aged 60 or over at the date of early retirement; or

(e) regulation 33(1) (other early leavers: deferred retirement benefits and elections for early payment) of the 2002 Regulations if the member is aged 55 or over but aged under 60 at the date of early retirement and the member’s employing authority agrees that paragraph 1(3) should apply.”;

(e) in paragraph 1(2) for “1(1)(b)(ii)” substitute “1(1)(aa), 1(1)(b)(ii) or 1(1)(e)”;

(f) in paragraph 1(5) for “References” substitute “In this Schedule, references”; and

(g) in paragraph 2—

(i) in sub-paragraph (1A)(a) after “waive” insert “in whole or in part”; and

(ii) for sub-paragraph (3) insert—

“(3) Where an employing authority agrees that paragraph 1(1)(aa), 1(1)(b)(ii) or 1(1)(e) should apply to a member, or determines to waive a reduction under sub-paragraph (1), the Committee shall require the employing authority concerned, or itself, to make additional payments to the fund in respect of any extra charge on the fund, as calculated by an actuary appointed by the Committee, resulting from the agreement or waiver of the reduction.”.

Sealed with the Official Seal of the Department for Communities on XXth Month 2019.

Anthony Carleton

A senior officer of the Department for Communities

The Department of Finance consents to the making of these Regulations

Sealed with the official Seal of the Department of Finance on XXth Month 2019.

Name Surname

A senior officer of the Department of Finance

(a) Sub-paragraph (1A) was inserted by S.R. 2016 No. 128.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of Statutory Rules which provide for the Local Government Pension Scheme (Northern Ireland) (LGPS (NI)).

Part 1 of these Regulations amend—

- The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (“the Benefits Regulations”);
- The Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (“the Administration Regulations”);
- The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (“the 2009 Transitional Regulations”);
- The Local Government Pension Scheme Regulations (Northern Ireland) 2014 (“the Principal Regulations”); and
- The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 (“the 2014 Transitional Regulations”).

These Regulations are made under the powers contained in the Public Service Pensions Act (Northern Ireland) 2014. Section 3(3)(b) of that Act provides that scheme regulations may make retrospective provision.

The amendments remove the requirement to complete a nomination form as part of the criteria which must be fulfilled to qualify for a survivor pension. The Benefits Regulations, the Administration Regulations and the 2009 Transitional Regulations came into operation on 1 April 2009 and the amendments to those 3 sets of Regulations will take effect from that date with the exception of regulation 4 (election to pay additional contributions: survivor benefits) which was introduced by amendment to the Benefits Regulations by S.R 2010 No. 410 with an effect date of 31 December 2009.

The definition of “cohabiting partner” as substituted in regulation 31(a) includes a new subparagraph at (c)(ii) which removes the 2 year qualifying period as it applied to the member’s ability to marry or enter a civil partnership from the date the member died. This modification will not have retrospective effect.

Part 2 of these Regulations amend—

- the Local Government (Superannuation) Regulations (Northern Ireland) 1981 (“the 1981 Regulations”);
- the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (“the 1992 Regulations”);
- the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (“the 2000 Regulations”);
- the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (“the 2002 Regulations”);
- the Benefits Regulations;
- the Administration Regulations;
- the Principal Regulations; and
- the 2014 Transitional Regulations.

All of the amending regulations in Part 2 come into operation on the same date as these Regulations with the exception of those listed in regulation 1(2).

Regulation 35 introduces amendments to the 1981 Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulation 36 substitutes regulation 13(4)(e) (admission of other persons to participation in superannuation benefits) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI).

Regulation 37 introduces amendments to the 1992 Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulation 38 amends regulation B5(10)(e) (power to admit employees of other bodies) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI).

Regulation 39 introduces amendments to the 2000 Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulation 40 amends regulation B6(3)(g) (agreements to enable employees of non-LGPS employers to be members (“admission agreements”)) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI).

Regulation 41 amends regulation D11 (entitlement to deferred retirement benefits) to remove the requirement for an employer to give consent for a member to elect for early payment of benefits where a member left with deferred benefits before 1st April 1988 and is aged 55 to 59. The consent of the LGPS (NI) the Committee – the Northern Ireland Local Government Officers’ Superannuation Committee (“the Committee”) remains a requirement.

Regulation 42 amends regulation D13 (reduction of pensions payable early by virtue of elections etc.) to enable the early payment of pensions from age 55 subject to an actuarial reduction for early payment in line with guidance issued by the Government Actuary’s Department.

Regulation 43 amends regulation N9 (payment of benefits) to allow a pension credit member to apply in writing to the Committee for the early payment of benefits from age 55. These benefits must be reduced for early payment in line with guidance issued by the Government Actuary’s Department.

Regulation 44 introduces amendments to the 2002 Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulation 45 amends regulation 4(3)(g) (employees of non-Scheme employers: community admission bodies) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI).

Regulation 46 omits regulation 41(7) (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.

Regulation 47 makes an amendment to regulation 140 (payment of benefits) to allow a pension credit member to apply in writing to the Committee for the early payment of benefits from age 55. These benefits must be reduced for early payment in line with guidance issued by the Government Actuary.

Regulation 48 omits regulation 141(5) (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.

Regulation 49 introduces amendments to the Benefits Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulations 50, 51 and 52 omits regulations 23(5) (death grants: active members), 32(4) (death grants: deferred members) and 35(4) (death grants: pensioner members), respectively, to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment.

Regulation 53 introduces amendments to the Administration Regulations in so far as they remain extant by virtue of the 2014 Transitional Regulations.

Regulation 54 amends regulation 4(2)(f) (employees of community admission bodies) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI).

Regulations 55 and 56 delete regulations 22(10) (use of accumulated value of AVCs and SCAVCs) and 92(3) (death grants: pension credit members), respectively, to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment.

Regulation 57 introduces amendments to the Principal Regulations by regulations 58 to 83 of these Regulations.

Regulation 58 inserts a new paragraph into regulation 10 (pension credit members and survivor members) clarifies that a reference to a pension credit member is always a reference to that member before benefits come into payment and at that point that member becomes a pensioner member.

Regulations 59, 60 and 61(b) amend regulation 13 (contributions during absence from work), insert a new regulation 16A (contributions during absences with permission) and amend regulation 17 (employing authority contributions during absences) respectively, to clarify the contributions that members and employers make during absences from work.

Regulation 61(a) amends regulation 17 (employing authority contributions during absences) to clarify that, where a member is absent on reserve forces service leave, it is the Ministry of Defence who pays the employer contribution.

Regulation 61(c) makes a minor amendment to regulation 17 (employing authority contributions during absences) to delete an incorrect reference to actuarial guidance.

Regulation 62 substitutes regulation 18(7) (additional pension contributions) to clarify the basis on which the Government Actuary's Department calculates the amount of contributions in respect of these arrangements by removing the gender of the member from consideration. The age of the member at the time these arrangements commence remains a factor.

Regulation 63 deletes regulation 19(14) (additional voluntary contributions) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment.

Regulation 64 amends regulation 22 (meaning of pensionable pay) to provide clarification that a non-consolidated non-pensionable payment made to a member resulting from the settlement of an annual pay award is excluded from pensionable pay.

Regulation 65 amends regulation 23 (assumed pensionable pay) permits employers to adopt a revised reference figure for the calculation of assumed pensionable pay where it would otherwise be unfair.

Regulation 66 amends regulation 31 (retirement benefits) to clarify that a member must receive their pension from age 75 even if they remain in local government employment and regulation 31(7)(b) (retirement benefits) to clarify that only active membership relating to that employment in relation to a post being made redundant is allowed to be considered in the calculation of early access to pension as part of a redundancy payment.

Regulation 67 amends regulation 34 (election for lump sum instead of pension) by updating the rules regarding election for lump sum instead of pension to reflect the Finance Act 2004. It ensures that where a pension in payment is split through a pension sharing order, the person who is provided with the pension credit will not be able to take a tax-free lump sum from the benefit rights that are acquired. This is on the basis that when the member's ex-spouse or former civil partner's benefits first came into payment, that ex-spouse or former civil partner will have taken (or had the opportunity to take) a tax-free lump sum in respect of the benefits, so it would not be appropriate to allow a lump sum to be taken free of income tax from the pension credit rights. This applies regardless of whether a lump sum was actually taken by the pension debit member.

Regulation 68 deletes regulation 40(4) (death grants: active members) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment.

Regulation 69(a) amends regulation 46 (death grants: deferred members and pensioner credit members) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment and regulation 69(b) substitutes regulation 46(5) to clarify the formula used for the calculation of the death grant payable to a pension credit member.

Regulation 70 amends regulation 51 (death grants: pensioner members) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment.

Regulation 71 amends regulations 52(4)(a), 54(3)(a), 54(4)(a), 55(3)(a) and 55(4)(a) (survivor benefits: partners and children of pensioner members) to ensure that the calculation of survivor benefits for partners and children of pensioner members include any ill-health enhancement under regulations 39(1)(a) or 39(2)(a) (tier 1 or tier 2 ill-health benefits).

Regulation 72 amends regulation 57 (limit on total amount of benefits payable) to correct references which apply in respect of lifetime allowance statements.

Regulation 73 amends regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) to provide for an amendment of the rates and adjustments certificate between valuations where there is material improvement in the employer's circumstances.

Regulation 74 amends regulation 80 (first instance decisions – general) to make it clear that it is the employing authority's responsibility to determine which of the employee's emoluments are remuneration on which contributions are payable.

Regulation 75 amends regulation 90 (exchange of information) to accommodate the faster exchange of information between the Committee and employing authorities.

Regulation 76 amends regulation 92 (payments due in respect of deceased persons) to clarify the recipients to which payments may be made under the scheme when a person dies.

Regulation 77 amends regulation 96 (annual allowance charge) to clarify that voluntary scheme pays may be offered to members who qualify.

Regulations 78-81 (except regulation 81(b)) amend regulations 108 (rights to payments out of the fund), 112 (inward transfers of pension rights), 113 (effect of acceptance of transfer value) and Schedule 1 (interpretation) to make provision for the Scheme to comply with its membership obligations of the Public Sector Transfer Club.

Regulation 81(b) amends the definition of "partner" in Schedule 1 (interpretation).

Regulation 82(a) amends Schedule 2 (admission agreements with admission bodies) to clarify that a grant maintained integrated school may be an admission body of the LGPS (NI). Regulation 82(b) inserts a new sub-paragraph to ensure that an admission agreement may take effect on a day before it is executed.

Regulation 83 amends Part 3 (expense and allowances payable to the Committee) of Schedule 3 (the committee: preliminary provisions) to remove a reference to a repealed provision.

Regulation 84 introduces amendments to the 2014 Transitional Regulations.

Regulation 85 amends regulation 3 (membership before 1 April 2015) to clarify that the normal pension age in relation to deferred benefits in respect of membership that ceased before 1 October 2006, is age 65.

Regulation 86 amends regulation 5 (membership of the scheme) to clarify that a person who has been a deferred member accruing final salary benefits under previous LGPS (NI) Regulations, who then becomes an active member of the reformed LGPS (NI) without a disqualifying break in membership, may continue to accrue final salary benefits under the statutory underpin arrangements, if notification is given to the Committee within a certain period of time.

Regulation 87 amends regulation 9 (transfers) to ensure that members of other public service pension schemes who are entitled to transitional protection under those schemes and who are continuing to accrue final salary benefits can obtain final salary benefits within the Local Government Pension Scheme if they transfer those benefits in and can benefit from the statutory underpin.

Regulation 88 amends regulation 9A (aggregation adjustments etc.) to introduce a 12 month time limit (which may be extended at the discretion of the Committee) if a former member of the Earlier Schemes takes up active membership of the Scheme and wishes to aggregate the benefits.

Regulation 89 amends regulation 13 (contributions) to clarify that the term “contributions” includes additional contributions.

Regulation 90 amends regulation 14 (additional contributions) to alter the administration of AVC benefits in regulation 19 (additional voluntary contributions) of the 2014 Regulations, so that the date the AVC arrangement was established is disregarded.

Regulation 91 substitutes regulation 15(1) (annual allowance) to enable the Committee to offer members, at its discretion, the voluntary scheme pays facility where the value of the member’s accrued benefits exceeds the annual allowance.

Regulation 92 makes an amendment to the provisions in Schedule 3 to the Transitional Regulations (“the 85 year rule”) to remove the requirement for employer consent for members aged between 55 and 60 to draw benefits.

These Regulations are made under the powers contained in the Public Service Pensions Act (Northern Ireland) 2014. Section 3(3)(b) of that Act provides that scheme regulations may make retrospective provision.

XX September 2019

Your ref:

By email to: lgpd@communities-ni.gov.uk

W Dobbin
Pensions Manager
Local Government and Housing
Regulation Directorate
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Causeway Exchange
1-7 Bedford Street
Townparks
BELFAST
BT2 7EG

Dear Mr Dobbin,

Consultation on Proposed Amendments to Local Government Pension Scheme for Northern Ireland (LGPS (NI))

Thank you for the opportunity to reply to the above consultation exercise.

From a practical perspective, Council found the consultation documentation to be onerous to read and requiring of consideration by individual(s) with a detailed working knowledge of the current NILGOSC Scheme.

Nonetheless, the publication of the Department's Consultation Document on its website and the detailing of main proposed amendment impacting upon employers and Scheme members within the NILGOSC Circular 06/2016 did help to make Council's consideration of the draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2019 more efficient and effective than would otherwise have been the case.

In summary, for the most part, Council has no objection to and welcomes the proposed amendments. Council notes the proposal to amend the Regulations to fully implement the Supreme Court's decision of 8 February 2017 in relation to the rights of cohabiting partners.

In addition, Council is pleased to see that the proposed amendments seek to give legislative authority to the Department's letters of comfort to NILGOSC in relation to current voluntary scheme pay arrangements.

Council also notes the proposed reintroduction of the 30-day rule that requires employee and employer contributions to be paid for the first 30 days of a period of absence with permission. This will replace using Additional Pension Contracts (APCs) for the first 30 days absence with permission e.g. career breaks, breaks in

service, unpaid leave etc. currently allowed by Regulation 18 of The Local Government Pension Scheme Regulations (Northern Ireland) 2014 (the Primary Regulations). Council notes that, for short term absences, i.e. up to 30 days, this should guarantee that the Scheme member takes steps to protect their future pension entitlement. However, Council is unclear if the amendment will prevent Scheme members absent with permission for in excess of 30 days seeking to use APCs for the period in excess of 30 days and, if not, whether Council continues to be obliged under Regulation 17 of the Primary Regulations to meet 2/3 of the cost of the APC. Perhaps the Department could clarify this uncertainty?

However, Council, in relation to draft Regulation 41(a), opines, that, as the former employer of deferred Scheme members seeking early payment of deferred pension benefits on compassionate grounds at any time after the member has attained the age of 50 years, it should continue to be at least consulted in relation to any such application.

Council would also suggest that, if the Regulations are revised (as is proposed, for example, by draft Regulation 42) to refer to guidance issued by the Government Actuary, arrangements are put in place to ensure that any such guidance is promptly circulated to the appropriate contact(s) within employing authorities.

Should you have any queries in relation to this response please do not hesitate to contact JJ Tohill, Director of Finance in the first instance.

Yours sincerely,