

**2008 No.**

**LOCAL GOVERNMENT**

**Local Government Pension Scheme (Transitional Provisions)  
Regulations (Northern Ireland) 2008**

*Made* - - - - *\*\*2009*  
*Coming into operation* - *1st April 2009*

The Department of the Environment, in exercise of the powers conferred by Article 9 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b).

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

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Local Government Pension Scheme (Transitional Provisions) Regulations (Northern Ireland) 2008.

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

- (a) regulation 8 on 1st February 2009; and
- (b) the remainder on 1st April 2009.

(3) In these Regulations—

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

“the 2002 Scheme” means the occupational pension scheme constituted by the 2002 Regulations;

“the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2008(d);

“the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2008(e); and

---

(a) S.I. 1972/1073 (N.I. 10); Art. 9 was amended by Art. 34 S.I. 2005/1968 (N.I. 18); Art. 14 was amended by Art. 12 S.I. 1990/1509 (N.I. 13).  
(b) S.R. & O (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6).  
(c) 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 and S.R. 2007 No. XXXX (now draft amendment No.3, possibly No. 2 when made)  
(d) S.R. 2008 No. XXXX;  
(e) S.R. 2008 No. XXXX;

“the Scheme” means the occupational pension scheme constituted by the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2008 and the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2008(a).

### **Revocation of Regulations**

2.—(1) Except where these Regulations provide otherwise, the Regulations listed in the Schedule 1 are revoked.

(2) Accordingly, no person may become a member of the 2002 Scheme after 31 March 2009 or accrue benefits in it in respect of any service after that date.

### **Membership accrued before 1st April 2009: active members**

3.—(1) This regulation applies to a person who was an active member of the 2002 Scheme and becomes a member of the Scheme by virtue of regulation 2 of the Benefits Regulations.

(2) Notwithstanding the revocations effected by regulation 2, the Regulations listed in the Schedule continue to have effect, subject to regulation 4, so far as is necessary so that—

- (a) the person’s total membership accrued in the 2002 Scheme in respect of, or calculated by reference to, his service before 1st April 2009, and the pension rights accrued at that date, are preserved; and
- (b) his benefits under the 2002 Scheme are payable immediately where benefits become payable without reduction under regulations 16, 17, 19 and 20 of the Benefits Regulations, or with the appropriate actuarial reduction in line with guidance produced by the Government Actuary where benefits become payable under regulations 18 or 30 of the Benefits Regulations.

(3) But his pay, for the purposes of any calculation of benefits under paragraph (2), is calculated in accordance with regulations 8 to 11 of the Benefits Regulations.

(4) And, for the purposes of regulations 24, 33 or 36 of the Benefits Regulations as they apply to nominated cohabiting partners or civil partners, only periods of membership after 5th April 1988 are to be taken into account.

### **Membership accrued before 1st April 2009: deferred members**

4.—(1) This regulation applies to a person—

- (a) who was a deferred member of the 2002 Scheme;
- (b) who becomes a member of the Scheme by virtue of regulation 10 (joining the scheme) of the Administration Regulations; and
- (c) whose preserved benefits under the 2002 Scheme have not yet come into payment.

(2) He may choose, by notice in writing to the Committee within 12 months (or such longer period as the Committee may allow) of becoming a member of the Scheme under paragraph (1)(b), to be treated as regulation 3 applied.

### **Early leavers: ill-health**

5. Where the benefits payable to a member in respect of whom the Committee makes a determination under regulation 20(1) of the Benefits Regulations before 1st October 2009 would place him in a worse position than he would otherwise be had the 2002 Regulations continued to apply, then those Regulations shall have effect in relation to him as if they were still in force.

---

(a) S.R. 2008 No. XXXX;

### **Deferred members: limit on death grant**

6. Where a person to whom regulation 3 applies has membership to which regulation 14 of the Administration Regulations also applies, the calculation of any period for the purposes of the latter provision is carried out separately in respect of periods of employment before 1st April 2009 as if regulation 35 (concurrent employments) of the 2002 Regulations still applied and in respect of periods of employment after 31st March 2009 in accordance with regulation 14 of the Administration Regulations.

### **Survivor benefits**

7.—(1) Subject to paragraphs (2) and (3), any survivor benefits payable in respect of a person to whom regulation 3 or 4 applies are calculated as if the Benefits Regulations applied to all of his membership, whether it accrued before or after 1st April 2009.

(2) The survivor benefits payable in respect of a deferred member to whom regulation 4 does not apply are calculated as if his total membership before 1st April 2009 was a separate period of membership to which the conditions in force at the time he became a deferred member apply.

(3) Regulation 44 (reduction of some surviving spouses' pensions) of the 2002 Regulations continues to apply to a deferred or pensioner member who marries after becoming such a member.

### **Deferred members: limit on death grant**

8. Where a person to whom regulation 3 applies becomes a deferred member after 31st March 2009 and dies before his pension comes into payment, the sum of any death grants to which he is entitled under any provision of the Scheme or the 2002 Regulations as continued in effect by regulation 3, shall not exceed his retirement pension multiplied by 5.

### **Members' contributions: information**

9. The employing authority of the person to whom regulation 2(3) of the Benefits Regulations applies shall inform him, before 1st April 2009, of the contribution rate applicable to him in accordance with regulation 3(2) of those Regulations.

### **Members' contributions: lower rate rights**

10.—(1) Subject to paragraph (4), the contribution rates set out in the table in regulation 3(2) of the Benefits Regulations ("the 2009 table") do not apply to a person to whom regulation 11(3) of the 2002 Regulations, as continued in effect by regulation 3, applies.

(2) Instead, the contribution rate to be applied to such a member is calculated in accordance with the following table.

**Table**

<i>Year commencing</i>	<i>Contribution rate</i>
1st April 2009	5.25%
1st April 2010	5.5%
1st April 2011	6.5%

(3) But if the application of the table set out in paragraph (2) would result in a member's contribution rate being higher than if the 2009 table applied, his contribution shall be paid at the lower rate.

(4) After 31st March 2012, such a member makes contributions in accordance with the 2009 table.

### **The 85 year rule**

11.—(1) This regulation applies to a person—

- (a) to whom regulation 3 applies; and
- (b) in respect of whom the Committee has consented to pay retirement benefits following a request made by him under regulation 30 of the Benefits Regulations.

(2) Schedule 2 (which makes transitional provision relating to the so-called “85 year rule”) has effect in relation to such a person.

### **Application of abatement policy in individual cases**

12. Notwithstanding the revocation of regulation 113 of the 2002 Regulations, paragraph (5) of that regulation shall continue to apply to a person who was a member for the Local Government Pension Scheme constituted under the Local Government Pension Scheme Regulations (Northern Ireland) 2000 immediately before 1st August 2000.

### **Pension sharing**

13. Part 11 of the Administration Regulations applies to those persons listed in Regulation 4(2)(a) of the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002(a).

Sealed with the Official Seal of the Department of the Environment on \*\*\* 2008.



*Name*

A senior officer of the Department of the Environment

## **SCHEDULE 1**

Regulation 2

### **REGULATIONS REVOKED**

Local Government Pension Scheme Regulations (Northern Ireland) 2002, except for the provisions listed below—

Regulation 24, as it applies to a member in respect of whom a certificate is issued (whether before or after 1st April 2009) under paragraph (3) of that regulation relating to a reduction or restriction of pay occurring before 1st April 2009;

Regulation 44, as continued by regulation 6(3);

Regulation 57, as it applies to a member who has elected, before 1st April 2009, to make additional contributions to increase his total membership by an additional period;

Regulation 68(8);

Regulation 76, as it applies to the year ending 31st March 2009;

Regulation 84;

Regulation 111;

Regulations 125(6A) and 125(6B);

Regulation 126;

---

(a) S.R. 2002 No. 353; as amended by S.R. 2006 No. 6.

Regulation 127; and

Schedule 5.

Local Government Pension Scheme (Amendment No.2 and Transitional Provisions) Regulations (Northern Ireland) 2002;

Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2004(a);

Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2005(b);

Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2005(c);

Local Government Pension Scheme (Civil Partnership) (Amendment) Regulations (Northern Ireland) 2006(d);

Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2006(e);

Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2007(f);

Local Government Pension Scheme (Amendment No. 3) Regulations (Northern Ireland) 2007(g);  
and

Local Government Pension Scheme (Amendment No. 4) Regulations (Northern Ireland) 2007(h).

## SCHEDULE 2

Regulation 11

### THE 85 YEAR RULE: TRANSITIONAL PROVISIONS AND SAVINGS

**1.** Subject to paragraph 7, where a member—

- (a) makes a request to receive the immediate payment of retirement benefits under regulation 18(1) (flexible retirement) of the Benefits Regulations; and
- (b) satisfies the 85 year rule;

that part of his retirement pension and grant which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 18(2) of the Benefits Regulations.

**2.** For the purposes of paragraph 1, the relevant date, for a member who was a member before 1st October 2006 is—

- (a) in the case of a member who will be aged 60 or more on 31st March 2016, the earlier of—
  - (i) 1st April 2016; and
  - (ii) the date on the day after the day on which the member leaves local government employment; or
- (b) in any other case, 1st April 2008.

**3.—(1)** For the purpose of this Schedule, a member satisfies the 85 year rule if the sum of—

- 
- (a) S.R. 2004 No. 139.
  - (b) S.R. 2005 No. 206.
  - (c) S.R. 2005 No. 274.
  - (d) S.R. 2006 No. 6.
  - (e) S.R. 2006 No. 112.
  - (f) S.R. 2007 No. 152.
  - (g) S.R. 2007 No. 448.
  - (h) S.R. 2007 No. 479.

- (a) his age in whole years on the date his local government employment ends or the date he makes a request under regulation 18(1) of the Benefits Regulations if later;
- (b) his total membership in whole years;
- (c) in a case where he makes a request after his local government employment ends, the period beginning with the end of that employment and ending with the date he makes the request; and
- (d) in the case of a person who was a member immediately before 1st February 2003, any qualifying period counted by virtue of regulation 127 (rights as to service not matched by credited period) of the 2002 Regulations which was awarded before 1st April 2008,

is 85 years or more.

(2) But, in calculating his total membership, no account is to be taken of any increase in membership awarded under regulation 12 (power of employing authority to increase total membership) of the Benefits Regulations.

**4.**—(1) This paragraph applies to a member to whom regulation 4 (membership accrued before 1st April 2009: deferred members) of these Regulations or regulation 13 (re-employed and rejoining deferred members) of the Administration Regulations applies.

(2) Where such a member—

- (a) does not choose; or
- (b) does not so choose as respects all periods of his membership,

to be treated as if regulation 3 (membership accrued before 1st April 2009: active members) applied, or to have his membership aggregated under regulation 13 of the Administration Regulations, as the case may be, then in applying paragraph 2 as respects any later membership, his total membership excludes unaggregated periods.

**5.**—(1) This paragraph applies to a member who was a member before 1st October 2006 who—

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase his total membership under regulation 57(1) (payments to increase total membership) of the 2002 Regulations; and
- (b) was assumed to retire from a local government employment on a date before his 65th birthday (“the assumed date”) for the purposes of calculating his additional contributions under regulation 57(5) of the 2002 Regulations.

(2) Where a member to whom this paragraph applies—

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

he shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of his total membership.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

**6.**—(1) Paragraphs 1 to 5 apply to a person who was a member before 1st October 2006 and who—

- (a) leaves local government employment and ceases to be a member of the 2002 Scheme or the Scheme (whether before or after that date); and
- (b) resumes such employment before the relevant date for the purposes of paragraph 1.

(2) And any period of membership after that resumption is aggregated with the period of membership accrued in his previous local government employment for the purposes of paragraph 1.

(3) But any increase in his total membership under regulation 12 of the Benefits Regulations is not counted for the purpose of paragraph 3(1)(b).

7.—(1) This paragraph applies to a member who retires, having reached the age of 60, on or after 1st April 2016 and before 1st April 2020, and whose retirement pension and grant would (but for the provisions of this paragraph) have been actuarially reduced by virtue of paragraphs 1 and 2.

(2) That part of his retirement pension and grant which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with guidance issued by the Government Actuary.

#### **EXPLANATORY NOTE**

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

These Regulations set out transitional provisions relating to members of the Local Government Pension Scheme 2002 (“the 2002 Scheme”), which is to be replaced by the new Local Government Pension Scheme (“the Scheme”) with effect from 1st April 2009.

Their effect is to protect the benefits accrued by members of the 1997 Scheme before 1st April 2009 and to protect their rights.

Regulation 2 provides for revocation, subject to savings, of the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (“the 2002 Regulations”) and of a number of subsequent Regulations that amend the 2002 Regulations or make provision dependant on them, which are set out in Schedule 1. It follows that, after 1st April 2009, no person may become a member of the 2002 Scheme, or accrue benefits in it (regulation 2(2)).

Regulation 3 to 5 preserve the membership and benefits accrued in the 2002 Scheme.

Regulation 6 provides survivor benefits and regulation 7 for limits on death grants for deferred members.

Regulation 8 requires employing authorities to inform certain members of the contribution rates applicable to them, regulation 9 provides for lower contribution rates in certain cases.

Regulation 10 and Schedule 2 make provision relating to the so-called “85- year rule” about early retirement.

Regulation 11 saves provisions about abatement policy contained in the 2002 Regulations, regulation 12 deals with pension sharing.

A full regulatory impact assessment has not been produced for this Statutory Rule as it has no impact on the cost of businesses, charities or voluntary bodies and does not have a significant financial impact on any public bodies.