

Part 1

Administering the Regulations

1. MEMBERSHIP OF THE SCHEME

1.1 Eligibility for Scheme Membership

Membership of the Scheme is automatic for all permanent and temporary employees aged under 65 (there is no lower age limit for membership), regardless of the hours and weeks worked, unless they opt, in writing, not to join, or opt out after joining. All new starts should be given the “Introduction to the LGPS(NI)” leaflet, together with the Employee’s Membership Form LGS 1 on, or prior to, their commencement of employment. Where an employee opts not to join the scheme, the employer should ensure that Employee’s Opting Out Form LGS 2 has been completed and retained on his/her personnel file. In all other cases, Form LGS 1 must be forwarded to the Committee within two weeks of joining the Scheme. If an employee does not complete and return Form LGS1, or Form LGS2, contributions must be deducted from his/her pay and the employer should complete Form LGS1 and forward it to the Committee.

When we receive Form LGS1, the member will be registered and a Membership Certificate and Member’s Information Pack sent to his/her home address. A copy of the Membership Certificate is also forwarded to the employing authority so that details can be checked and the pension scheme reference number recorded.

Membership of the Scheme can only continue after age 65 if Inland Revenue limits are not exceeded. A person may not become a member after his or her 65th birthday.

(Regulations 3 to 6)

1.2 Opting not to join

When a member informs his/her employing authority, within three months of joining, that (s)he does not want to continue being a member, (s)he is treated as never having been a member. Any contributions already deducted are to be refunded through the employer’s payroll and National Insurance contributions are to be adjusted from “D” rate to “A” rate. NILGOSC must be notified if Form LGS1 has already been forwarded to NILGOSC and the employer must ensure that Employee’s Opting Out Form LGS2 is completed and retained on the member’s personnel file in case of future disputes.

(Regulation 7)

1.3 Casual Employment

Casual employees are not automatically admitted to the Scheme but may opt to join. There is no minimum period of employment required. Short periods of membership can be combined to create a pension entitlement.

(Regulation 6)

1.4 Joining after opting out or opting not to join

Employees can join the Scheme as a right. Those who have chosen not to join may, unless there is a change of employer, refuse the option of membership once and be able to re-join as a *right*. However, if they have opted out more than once in the same employment they can only rejoin at the employer’s discretion.

(Regulation 6).

1.5 Whole-time Employment

Whole-time employment is defined as the contractual hours stipulated in the contract of employment as being whole-time for that employment. For example, a school patrol officer working 15 hours per week will be whole-time if the normal hours for that job are 15.

(Schedule 1)

1.6 Part-time Employment

Employment is defined as part-time where an employee works less than the normal contractual hours for that employment. For example, a clerical officer who works 32 hours per week is classified as being part-time if the normal hours for that job are 37 per week.

(Schedule 1)

1.7 Two or more Employments

Where an employee has two or more employments under the same employing body, (s)he is eligible to be a member of the Scheme in respect of all (but not less than all) of them.

(Regulation 11)

1.8 Employees not eligible to join the Scheme

Employees who are subject to:-

- Another statutory pension scheme (e.g. NI Teachers' Superannuation Scheme)
- The Universities' Superannuation Scheme

or who:-

- are over 65 on commencing employment, or
- have more than once opted out of the Scheme in the same employment, unless their employer consents, or
- are employed by the Fire Authority for Northern Ireland as part time firefighters.

are not eligible to become members of the Scheme.

(Regulation 5)

1.9 Opting Out of the Scheme

A person can give notice in writing to his/her employer at any time that (s)he wishes to cease to be a member of the Scheme. Such notification will have effect from the day following the end of the next full pay period, or such later date as the employee may specify.

Where a person opts out within three months of first joining the Scheme, (s)he shall be treated as never having been a member. In this case, Form LGS2 should be completed and retained on the member's personnel file. The employer must notify the Committee in writing that the membership has been cancelled and refund the member's contributions through the payroll (see Section 1.2).

If an employee opts out of the Scheme after (s)he has been a member for more than three months, (s)he must complete Opting Out Form R31, which the employing authority must forward to the Committee along with Leaver's Form LGS 15.

An employee who opts out of the Pension Scheme can make one election, in writing, to rejoin the Scheme provided that:-

- (a) (s)he is still with the same employer **OR**
- (b) (s)he makes an election within three months of joining a new employer.

An employee who opts out of the Scheme more than once can only rejoin with their employer's consent.

(Regulations 6 and 7).

1.10 Liaison with NILGOSC

Entitlement to Scheme benefits starts from the first day of membership. It is therefore important to notify NILGOSC as soon as possible that a new employee has joined the Scheme. A completed Form LGS 1, Employee's Membership Form, should be forwarded to NILGOSC within two weeks of the commencement of employment. Where possible, the Form LGS1 should be accompanied by a copy of the member's birth certificate and Form LGS20 – Nomination of Beneficiary.

1.11 Change of Member Details

Other changes occurring during the course of membership which must be notified Immediately to NILGOSC include:

- Change of name, address or marital status
- Amendment to date of birth
- Amendment to National Insurance number
- Change of National Insurance contribution rate
- Change of contractual hours or contractual weeks
- Opting out of the Scheme
- Periods of authorised/unauthorised absence (including industrial action)
- Date of termination of employment with final pay details
- Change in the member's contribution rate

Failure to notify these changes promptly may delay or prevent the issue of a pension benefit statement and can affect the calculation of the member's pension benefits, causing incorrect information to be given and even in delaying payment. Part 3 includes samples of the various forms used to notify changes in a member's circumstances.

2. PENSIONABLE PAY AND CONTRIBUTIONS

2.1 Pensionable Pay

Pensionable pay is the pay in relation to which contributions and benefits are calculated. It includes:

- (a) all salary, wages, or fees;
- (b) any payments specified in the contract of employment as being a pensionable emolument e.g. shift allowance, bonus, performance related pay, contractual overtime, acting up payments;
- (c) the monetary value of free meals, free accommodation and any other payments in kind (e.g. childcare vouchers) which are included in the contract of employment. The value of any items in this category should be revalued annually in line with increases in the cost of living.

(Regulation 12)

2.2 Non-Pensionable Pay

NO contributions should be deducted in respect of any of the following payments which are specifically excluded from the definition of pay:

- (a) payments for non-contractual overtime;
- (b) any travelling or subsistence allowance or any other payments in respect of expenses incurred in relation to the employment;
- (c) payment in lieu of holidays;
- (d) payment in lieu of notice;
- (e) any payment as an inducement not to terminate employment;
- (f) the money value of the provision of a motor vehicle, or any payment in lieu of such provision.

(Regulation 12)

2.3 Final Pay

Final pay is the pay used in the calculation of benefits . It is usually the pay earned in the final year of membership, but if the pay earned in either of the two preceding years is higher, it will be used instead.

In certain circumstances, it may be possible to use an even earlier year's pay if it is higher (see section 2.8).

(Regulation 22)

2.4 Part-time Employment

Pensionable pay, for the purpose of calculating most benefits for part-time employees, is treated as the pensionable pay of a single, comparable whole-time employment.

However, when a part-time member dies, the death grant payable will normally be twice the actual part-time pay.

(Regulation 22)

2.5 Fluctuating Payments

Any payments which are not paid on a fixed basis and are additional to a member's pay, e.g. productivity or performance related pay and election payments to Town Clerks, are averaged over 3 years or such more favourable period of more than 3 but not more than 5 years, and added to the final pensionable pay for the purpose of calculating benefits.

(Regulation 23)

2.6 Limits on Pensionable Pay

In respect of members who joined the Scheme on or after **1 June 1989**, otherwise known as “Class A” members, Inland Revenue rules limit the pay which can be treated as pensionable to the “permitted maximum”. This is currently (2003/2004 tax year) £99,000.

(Schedule 4, para 2 (14))

2.7 Notional Pay

An employing authority can agree to use a standard rate of pay for all employees of a specific class or description, i.e. notional pay.

This standard rate must take into account all the variable earnings that are paid to the members.

The amount of the “notional” pay must be approved by representatives from the groups of employees concerned. If an agreement is made, written notification of the notional pay to be used must be sent to each member and to all future members covered by the agreement.

(Regulation 12)

2.8 Permanent Reduction in Pay

Where a member suffers a reduction in pay which is material, (s)he is entitled to be issued, on request, with a certificate of his/her pensionable pay immediately before the reduction took effect. A Certificate of Protection (Form LGS 13) must also be forwarded to the Committee giving this information.

A reduction in pay is not material if:

- (a) it did not result from circumstances beyond the employee’s control; or
- (b) it was temporary; or
- (c) it resulted from the termination of, or a reduction in, a temporary increase in pay.

A reduction in pay is material if:

- (a) the pay of an employment the member continues to hold is reduced; or
- (b) the member is transferred to another employment under the same employing authority at a reduced rate.

The employing authority may issue a certificate without an application from the employee, but need not issue one if (s)he does not apply for one within 12 months after the date of the reduction.

Contributions are payable on the reduced amount of pay.

The employing authority is required to hold the Certificate of Protection for a period of 13 years. If the employee leaves, retires or dies during this period, (s)he is entitled to have benefits calculated using the pay shown on the certificate if this is greater than the actual pay at the date when membership ceases.

(Regulation 24)

2.9 Members’ Contribution Rates

The members’ contribution rate is normally 6% of pensionable pay.

(Regulation 11)

2.10 Members with lower rate rights

Before 1 February 2003 staff employed as manual workers paid 5% pension contributions, while administrative, professional, technical and clerical staff paid at the rate of 6%. Under the 2002 Regulations, a standardised contribution rate of 6% was introduced, but the rights of those employees who could pay 5% have been protected. This protection applies whilst they remain employed in the same capacity and covers changes of employer provided that the gap is not more than one month and the new employment would also have been designated as manual under the previous Regulations.

(Regulation 13)

2.11 Maximum Contribution Limits

Under Inland Revenue rules, the maximum contributions a member can pay into any pension scheme is 15% of his/her remuneration in any tax year. Remuneration should not be confused with pensionable pay. Pay has a particular meaning within the Regulations for the purposes of LGPS(NI) benefits, whilst remuneration includes all taxable earnings (such as non-contractual overtime, which is excluded from pay under the Scheme). Members may pay additional contributions or additional voluntary contributions (AVCs) up to the overall 15% limit to enhance their pension benefits.

(Regulation 15)

2.12 Employer's discretion to reduce member's contribution rate

An employer may choose to reduce or waive a member's contribution rate. This can only be done where the member has completed 40 years membership in local government employment. Membership which has been transferred in from non-local government sources does **not** count. This is because the membership credited as a result of the transfer is excluded from the maximum limits set under Inland Revenue rules for LGPS(NI) members.

Where this option is used, the employer is responsible for making good any shortfall to the pension fund, by paying both the employee's and the employer's share of contributions. An employer may be called upon to justify the reasons for exercising the discretion – for instance, Class B and C members have the right to count up to 45 years membership at age 65 whilst a Class A member can only count a maximum of 40 years.

To use this discretion an employer must pass a resolution, a copy of which must be given to the employee and to NILGOSC. The resolution must state the extent of the reduction in contributions and how long it will last. If the resolution sets no time limit, it will stay in force as long as the employment lasts.

(Regulation 14)

2.13 Employers' Contribution Rates

The Employer's contribution rate is determined by the Scheme's Actuary every three years. The common rate for employers determined by the actuary following the last valuation of the fund at 31 March 2001 was 11.9% for the period 1 April 2002 to 31 March 2005. This rate is paid by employing authorities which have joined the Scheme since April 2002.

The strong performance of the fund in the past has enabled a reduction to the common rate to be made for employers who participated in the Scheme prior to 1 April 2002. Employers who joined the scheme between 1 April 1996 and 31 March 1999 are required to contribute 8.2% of pensionable pay, while those who were in the scheme prior to 1 April 1996 pay 4.6%, with the exception of one which is subject to a special rate.

The next valuation will take place as at 31 March 2004 and any adjustment to the employers' rates will take effect from 1 April 2005 to 31 March 2008.

(Regulations 77-79)

2.14 Contributions End

Contributions are payable for all periods of membership up to age 65. A member can continue to contribute after age 65 provided that:-

- (a) if (s)he joined the scheme on or after 1 June 1989, the total period of membership which (s)he can count amounts to less than 40 years; or
- (b) if (s)he joined the scheme before 1 June 1989, the total period of membership which (s)he can count amounts to less than 45 years, disregarding any period of membership before age 60 in excess of 40 years.

PLEASE NOTE THAT LEAVER'S FORM LGS15 MUST BE SUBMITTED TO NILGOSC WHEN CONTRIBUTIONS CEASE.

(Regulation 5 and Schedule 4)

2.15 Deduction of Contributions during Illness

Contributions are deducted on the amount of contractual sick pay received from the employer. Where Statutory Sick Pay (SSP) is included in the contractual pay, contributions are calculated on the full contractual pay.

SSP is not pay and is therefore not pensionable. If only SSP is paid, no contributions are deducted. Where reduced contractual pay plus SSP is paid, contributions are deducted on the contractual element only.

Unpaid sick leave which commenced on or after 1 August 2000 counts towards a member's total membership period, even though no contributions have been paid. When an employing authority has a high incidence of unpaid sick leave of long duration, it may be necessary to increase the employer's contribution rate to recoup the resulting cost to the Fund.

Form LGS 34 (Breaks in Employment) must be submitted to NILGOSC at the commencement of the unpaid period of sickness, followed by Form LGS35 (Re-employment following a break) when the member returns to work, or Leaver's Form LGS15 if the member does not return and employment is terminated.

(Regulation 16)

2.16 Approved Absences

Employers can grant periods of absence. In some cases (such as maternity leave) the employee has a statutory right whilst in others (such as career breaks), it is at the employer's discretion. Absence due to illness or injury does not count as an absence for these purposes (as membership rights will continue in such cases and contributions will only be payable on the actual pay received). The arrangements for the payment of contributions during an approved period of absence are as follows:

If the period of approved absence lasts 30 days or less (or longer in the case of jury service) the member and employer **must** pay during

- ***Maternity, paternity or adoption leave*** – on the actual pay (including statutory maternity, paternity or adoption pay) received; if the member has no entitlement

to pay (including statutory pay) during a period of ordinary maternity leave, ordinary adoption leave or paternity leave, (s)he is treated as if (s)he had paid contributions and the employer must pay on his/her normal rate of pay.

- **Career breaks, study leave, special leave etc.** – on the pay that would have been paid if the absence had not occurred;
- **Jury service** – on the pay that would have been paid but for the deduction of any Jurors' Allowances claimed; and for
- **Reserve Forces leave** – the pay that would have been paid if the absence had not occurred where the reserve forces pay equals or exceeds the former local government salary. Where this is not the case, the employer is responsible for paying the member's contributions (including any added years' payments and additional voluntary contributions, unless the member chooses to cancel the arrangement).

Apart from paid maternity or adoption leave, if the absence is more than 30 days the employee can choose to pay contributions in order to count the period of absence as membership. Contributions are worked out on the pay that would have been received had the absence not occurred. If the member opts to pay contributions to cover the period of absence, the employer **must** pay the employer's portion. The maximum period that can be covered is 36 months from the start of the absence. The member must apply in writing to the employer within 30 days of returning to work, or the date employment terminated, if earlier.

In the case of maternity or adoption leave, the member **must** pay contributions on whatever pay she receives during that period. If she remains on maternity leave but without pay, she can apply in writing within 30 days of returning to work to pay contributions on whatever pay she was receiving (including statutory maternity pay) immediately before it stopped.

The arrears of contributions can be paid to the Committee over a period not longer than the period of the leave of absence, e.g. one year's leave of absence, arrears payable over one year etc. Only in exceptional circumstances will the Committee permit a longer period for repayment.

A member who does not elect to pay arrears of contributions cannot count the period of the absence as a period of membership.

A member who is paying additional contributions either to buy additional membership or an unreduced lump sum must pay the arrears of additional contributions, calculated on the normal pay (s)he would have earned, on return to work, even though no election has been made to pay normal contributions to cover the break in membership.

Pension Record Maintenance Form LGS 34 should be forwarded to NILGOSC after the first 30 days leave in the cases of absences which are expected to be of less than one year's duration. Where a career break of one year or more has been granted, Leaver's Form LGS15 is required. In either case, return to work should be notified on Form LGS35.

The member's decision whether or not to pay contributions for a period of absence may have long-term consequences on the benefits ultimately payable. It is therefore strongly recommended that the member is asked on return to work to give written confirmation of their wishes and that a copy is returned to NILGOSC.

(Regulations 16 and 17)

2.17 Absence due to Trade Dispute

A member involved in a strike because of a trade dispute can elect to purchase the period of membership lost due to the dispute.

Notice must be given in writing within 3 months from the date of return to work and the cost is a contribution rate of 16% of the pensionable pay which the member would normally have earned. Form LGS35, indicating whether the member has opted to pay contributions, should be forwarded to the Committee on the member's return to work.

No contribution is payable by the employer.

(Regulation 17)

2.18 Payment of Contributions to NILGOSC

Each employer is required to remit the contributions (both employee and employer) in respect of its members to NILGOSC on the first day of the month following the month to which the contributions relate. Interest is payable on contributions which are paid ten or more days late. A Remittance Form LGS6, or substitute, giving a breakdown of contributions and adjustments must also be forwarded.

(Regulations 81 and 82)

2.19 Annual Return of Contributions

At 31 March each year, a return which includes details of each member's total contributions, additional contributions, pensionable pay and contracted-out earnings during the past twelve months and annual rate of pay as at 31 March (salary rate) is required from all employers. The annual return must be submitted as soon as possible after the year end and in any case no later than 31 May each year to enable NILGOSC staff to undertake the work necessary to produce members' annual pension benefit statements. The annual return must be supplied in paper form, either on Forms LGS7/7A for normal contributions and form AVC 7 for additional voluntary contributions, or a computer-generated substitute. Employers who can produce the same information in electronic format (floppy disk, magnetic tape or e-mail) are asked to contact the NILGOSC IT Section for further details of how their submission should be formatted.

As well as checking that each member has paid the correct contributions, the annual return is also used to reconcile the total contributions paid by the employer during the year with the total contributions which were due.

(Regulation 81)

3. TRANSFERRING FROM ANOTHER PENSION SCHEME OR ARRANGEMENT

3.1 Transfer Request

An employee may request the Committee to apply for a transfer of his/her benefits in a former pension scheme or arrangement. The request must be in writing and be made within twelve months of becoming a member. A section of the LGS 1 Membership Option Form is provided for this purpose.

The Committee will accept a transfer value payment from another pension scheme or provider, provided that it does not contravene the pension regulations. When the Committee is advised of the amount of the payment available for transfer, it will inform the member of the benefits which can be purchased in the Scheme if the transfer proceeds.

The member may then decide to:

(a) accept the additional period of membership bought by the transfer payment;

or

(b) decline the transfer and retain the entitlement in the former scheme or arrangement.

(Regulations 124 and 125)

3.2 Transfer Club

Many public sector pension schemes (including NILGOSC, Civil Service, Health Services, Teachers', Police, Fire, GB Local Government, Armed Forces, and the Universities' Superannuation Scheme) participate in a transfer club. This means that when a member transfers between any of these schemes, the value of his/her benefit entitlement is unaffected by the transfer and membership in the new scheme will normally be comparable to that in the former scheme.

4. PAYING ADDITIONAL CONTRIBUTIONS

4.1 Contribution Limits

Under Inland Revenue rules the maximum contributions a member may pay into any pension scheme is limited to 15% of *remuneration* in each tax year. Remuneration should not be confused with *pay*. Pay has a particular meaning within the regulations for the purposes of LGPS(NI) benefits whilst remuneration includes **all** taxable earnings such as non-contractual overtime which is excluded under the Scheme. The standard rate of contribution is 6% of pay, but some members retain the right to pay the lower rate of 5% (see section 2.10 – Members with lower rate rights). A member can pay extra contributions (up to the overall 15% limit) to enhance his/her benefit package.

A member can improve his/her benefits by one or more of the following methods:

- i. purchasing an additional period of membership
- ii. paying Additional Voluntary Contributions (AVCs);
- iii. contributing to a Shared Cost AVC arrangement.

4.2 Purchasing an Additional Period of Membership

A member can buy an extra period of membership to bring the total period of membership up to a maximum of 40 years (subject to Inland Revenue limits). This option is likely to be of interest to members who join the Scheme later on in life and who are thus unable to accrue 40 years membership by age 65. Before buying the additional membership, the member will have to prove that (s)he is in a reasonable state of health by undergoing a medical examination (at his/her own expense) by one of the Committee's Occupational Health Consultants. Employers will be advised by the Committee to start deducting additional contributions from the member's pay. See Section 18 for further information about the purchase of an additional period of membership.

(Regulation 57)

4.3 Paying Additional Voluntary Contributions (AVCs)

A member may pay either a fixed amount or a percentage of his/her pay in AVCs. These are invested separately from the Scheme's main fund and the member will have his/her own account that can build up over the period of investment. The AVC fund can be used to provide additional income in retirement, either by purchasing an annuity from the AVC provider or another insurance company, or by buying additional pension from the Scheme. A member can defer purchasing an annuity or extra Scheme pension until age 75. AVCs can also be used to increase life cover while the member is in employment. See Section 19 for further information about paying AVCs.

(Regulations 62 to 68)

4.4 Shared Cost Additional Voluntary Contributions (SCAVCs)

Employers have the discretion to offer a Shared Cost Additional Contribution Scheme, either to provide additional life cover for their employees, or to increase the amount being saved by a member in an AVC account. The employer's contribution need not match the cost to the member and does not count towards the 15% limit on member contributions. The Scheme rules allow for either party to terminate a SCAVC arrangement at any time. Employers must include details of how they will exercise this discretion in their Policy Statement (see Section 6).

(Regulations 69 and 70)

5. CHANGES IN EMPLOYMENT AND RE-EMPLOYMENT OF PRESERVED PENSIONERS AND PENSIONERS

5.1 Changes in Employment

Each time a member changes employment (or the employer issues a new contract of employment), (s)he must decide whether or not to transfer his/her accumulated benefits in the old employment into a new period of LGPS(NI) membership. This is because the value of those benefits can change where, for instance, the member goes from a high paying job to one with a lower salary (or vice versa) if they were automatically transferred over. Because of this the Scheme allows members the choice of keeping benefits separate or joining them together. If a member chooses to keep his/her benefits separate on taking up the new employment, (s)he will have a further opportunity to aggregate them on leaving or retiring.

(Regulation 34)

5.2 Re-employed Preserved Pensioners

An employee who has an entitlement to preserved benefits in the Scheme has the choice to keep them separate if (s)he becomes a member of the Scheme again. The previous period(s) of membership will only be aggregated with the current period if (s)he gives notice in writing to the Committee that (s)he wishes for this to be done.

The member will have a further opportunity to aggregate benefits when (s)he leaves the Scheme or when the benefits from the second period of employment become payable.

(Regulations 31 and 34)

5.3 Re-employed Pensioners

It is the Committee's policy to reduce or suspend the pension of a person who takes up further employment with a Scheme employer after receiving a LGPS(NI) pension, even though (s)he chooses not to rejoin the Local Government Pension Scheme. Such reduction or suspension will only apply when the total of the pension and the pay in the new job exceeds the pay (increased, where appropriate, in line with inflation) in the former employment in respect of which the pension was awarded.

The Committee is obliged to consult with employing authorities and to keep its policy with regard to abatement of pensions under review. Employers must inform NILGOSC immediately when they employ a person who is receiving a pension from the LGPS(NI).

(Regulation 112)

6. EMPLOYER'S DISCRETIONS

6.1 Publication of Policy Statement

The Local Government Pension Scheme Regulations (Northern Ireland) 2002 require all employing authorities and the Committee to formulate and keep under review their policy concerning the exercise of certain discretionary powers which they are given by the Regulations. In formulating its policy, an employing authority must have regard to the extent to which the exercise of its discretionary powers could lead to a serious loss of confidence in the public service. It must also apply the discretions reasonably and ensure that they are not fettered (i.e. used in such a way that individual circumstances cannot be considered or that the usual practice is rigidly followed).

When an employing authority amends its policy as the result of a review, it must send a copy of the statement of the amended policy to the Committee within one month of making the amendment.

The discretionary powers which an employing authority *must* include in its policy statement are described in sections 6.2 to 6.5.

(Regulation 108)

6.2 Discretion with regard to Early Leavers (Regulation 33)

From age 50, members and former members who were members after 31 January 2003, can apply for early payment of their benefits subject to their employer's consent. The employer bears the actuarial cost of the benefits being paid early. Employees or former employees who are aged over 60 do not require their employer's consent to retire early.

If the sum of the employee's age and membership of the Scheme are less than 85 years, reduced benefits are payable. This is known as the "85 year rule". The employer may waive the reduction in benefits on compassionate grounds, but this will involve an additional cost.

6.3 Discretion to grant additional membership to members who leave at age 50 and over (Regulation 54)

An employing authority may resolve to grant additional membership to a member who leaves employment at age 50 or over. The additional period granted must not exceed the shortest of:

- i. the member's total membership on the date (s)he leaves employment;
- ii. the period by which his/her membership falls short of 40 years;
- iii. the period by which membership would increase if (s)he continued as a member to age 65;
- iv. 6 years and 243 days.

Additional membership cannot be granted if the member has been granted additional membership under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003 or has been retired on the grounds of permanent ill health with enhanced membership. The resolution to grant additional membership must be made within a period of one month before to six months after the date of retirement. There is no requirement for the member to be entitled to immediate payment of benefits.

The employing authority is required to pay the cost of granting the additional membership to the Committee.

6.4 Discretion to grant additional membership on joining the Scheme (Regulation 55)

Provided that a member is aged under 59 on joining the Scheme, an employing authority may grant him/her an additional period of membership, provided that Inland Revenue limits are not exceeded. If the member subsequently leaves without entitlement to the immediate payment of benefits, the additional period does not count in the calculation of his/her benefits (“golden handcuffs”). The employer is required to pay the cost of the additional membership granted at the time of making the resolution, but this cost will be refunded by the Committee if no additional benefits become payable.

6.5 Discretion to establish a Shared Cost AVC scheme (SCAVC) (Regulation 69)

An employing authority may resolve to establish a SCAVC arrangement for its active members. It must specify in its policy statement whether all active members in its employment are eligible to take part in the SCAVC scheme and, if not, the conditions for eligibility. It must also specify whether, and in what proportion, SCAVCs may be used to provide benefits on the death of active members (the Scheme provides for twice the member’s annual pay to be payable on death in service, but the Inland Revenue permits the payment of four times annual pay in the event of death in service, so one possible use of SCAVCs is to increase the death in service payment). The authority must also specify the amount of contributions it will pay under the SCAVC arrangement. It is a requirement of the Regulations that the member also contributes to the SCAVC arrangement, but may elect to stop doing so at any time, in which case the authority’s contributions must also cease.

6.6 Discretion to allow a member who has previously opted out to rejoin the Scheme (Regulation 6(9))

A member who has opted out more than once requires the consent of his/her employing authority to rejoin the Scheme. In giving such consent, the employing authority should have due regard to the member’s state of health when (s)he applies to rejoin as any subsequent claim for ill health benefits could result in an additional charge being levied on the employing authority under Regulation 80.

Authorities are not obliged by the Regulations to include this discretion in their policy, statement, but are strongly advised to do so.

6.7 Discretion to waive or reduce a member’s contribution rate (Regulation 14)

Where an active member has 40 years membership in local government employment (i.e. transferred in membership does not count), the employing authority may resolve that (s)he should pay reduced or no contributions, either for a specified period, or for the remainder of their membership. In this event the employing authority pays the member’s contributions as well as the employer contributions.

Authorities are not obliged by the Regulations to include this discretion in their policy statement, but are strongly advised to do so.

7. SCHEME BENEFITS

7.1 Calculation of Scheme Benefits

The LGPS(NI) is a final salary pension scheme. It offers:

- On 40 years membership, a pension of 50% of final pay (1/80th of final pay for each year of membership).
- A retirement grant of up to 1 1/2 times final pay (3/80th of final pay for each year of membership).
- A death in service lump sum of twice pay, regardless of length of membership.
- For pensioners, a death benefit guarantee of five years' pension (less any pension paid).
- Spouse's and children's pensions.

7.2 Entitlement to Scheme Benefits

To be entitled to a pension and retirement grant, a member must have a minimum of two years membership, or have a transfer credit from another pension scheme or arrangement.

(Regulation 18)

7.3 Normal Retirement Age

For members who join the Scheme on or after 1 February 2003, the normal retirement age is 65.

The normal retirement age for members who joined the Scheme before 1 February 2003 is the age between 60 and 65 when they have completed a minimum of 25 years' membership.

(Regulation 26)

7.4 Early Payment of Benefits

Benefits can be paid earlier than normal retirement age in the following circumstances:

- in the case of permanent ill-health, certified by one of the Committee's Occupational Health Consultants, at any age.
- for members aged over 50:
 - i. as of right when employment is terminated due to redundancy or in the interest of the efficient exercise of the employer's functions;
 - ii. at the member's request, but the employer must consent if the member is under 60.

When benefits are paid earlier than the normal retirement age, there is always an increased cost to the pension fund which must, except in the case of ill-health, be recouped from the employee in the form of actuarially reduced benefits and from the employer who has allowed or occasioned the early payment of benefits, either as a single payment, or by instalments paid over three years, or such longer period as the Committee may exceptionally allow. In the case of ill-health, the Scheme's actuary examines the incidence of ill-health retirements in each employing authority as part of the triennial valuation and can recommend an increase in the employer's contribution rate for any authority where the incidence is unduly high, or where

benefits have been artificially inflated because members have been allowed to remain on unpaid sick leave for an excessive length of time before their employment has been terminated.

(Regulations 28, 29 and 33)

7.5 Elections for Early Payment

Any member aged 50 or over can ask for the early payment of pension benefits. The request must be in writing to the employer (or former employer, if the member has already left the Scheme, but was a member on or after 1 February 2003). Where the member is under age 60 it will be at the employer's discretion to agree to payment. Payment cannot be made until after the member has left employment.

(Regulation 33)

7.6 The 85 Year Rule

Pension benefits paid early at the member's request are subject to a test – known as the “85 year rule” – to decide whether or not they should be actuarially reduced. This test is satisfied if the total of the member's age (in whole years) and membership (in whole years) is equal to or greater than 85. Where this test is not satisfied a reduction is applied which is dependent on the period to the date when the test would be satisfied. Different reduction factors apply to men and women, reflecting their different life expectancies. Employers can choose to waive the reduction on compassionate grounds but this will incur an additional cost.

A copy of the reduction factors and associated guidance from the Government Actuary's Department is included in Part 2, for information purposes only, together with examples of how the “85 year rule” can apply.

(Regulation 33)

7.7 Retirement Procedure

Employers should inform the Committee of a member's impending retirement three months before the event, or as soon as the date of retirement has been decided, if later.

When a member retires with the entitlement to immediate payment of benefits on the grounds of age, ill-health, redundancy, efficiency or early retirement with or without the employer's consent at age 50 or over, the employer must issue the member with a Claim for Benefits Form LGS51, completed to show the grounds for retirement, and complete Leavers' Form LGS15 and forward it to the Committee together with the member's P45 Tax Form as soon as the final payment to the member has been made.

8. LEAVING OR OPTING-OUT BEFORE RETIREMENT

8.1 Changing jobs within the LGPS(NI)

If a member changes jobs between two employers in the LGPS(NI), the two periods of membership will normally be kept separate, unless (s)he asks for them to be combined. This means that (s)he will have preserved benefits in respect of the first employment and will start building up a new set of benefits in the second employment. It will normally be possible to combine both sets of benefits at any time until membership of the Scheme ceases. Scheme membership in the first job will be counted in determining any entitlement to benefits, or to a refund of contributions, in the second job. When this situation arises, the first employer should complete Part 1 of Member Transferring Between Employers Form LGS16 and send it to the new employer, who completes Part 2 and forwards it to NILGOSC

If a member has two or more concurrent jobs in which (s)he is contributing to the LGPS(NI) and ceases one (or more, but not all) of them, (s)he can opt to transfer the benefits in the job (or jobs) ceased to the job (s)he continues to hold. The amount of membership granted in the continuing job as a result of the transfer will be calculated as follows:

Membership in job that has ceased x whole-time rate of pay in the job that has ceased
whole-time rate of pay in continuing job

8.2 Leaving LGPS(NI) employment

In these circumstances the member may choose, from a number of options, what happens to the benefits s(he) has accrued in the LGPS(NI). The options available depend on whether s(he) has more than two years total membership (a member who brought a transfer value into the LGPS(NI) is treated as if s(he) has more than two years total membership) or less than 2 years. The options are set out in Table 8.2 overleaf.

In all cases, the member should be given Claim for Benefit Options Form LGS5 to complete and the employer must complete Leavers' Form LGS15. If (s)he has opted out of the Scheme while remaining in the employment, (s)he must also be asked to complete Opting Out Form LGS31.

(Regulations 33 ,88 and 89)

8.3 Preserved Benefits

Benefits will remain preserved within the LGPS(NI) until they become payable or until the member decides to transfer them as detailed in the table above. Preserved benefits are index-linked in line with the Retail Prices Index.

Preserved benefits become payable at normal retirement date, but may be put into payment early in the event of ill health at any age, without reduction. Provided that the member was a member of the Scheme on or after 1 February 2003, (s)he can also elect to receive his/her benefits early, at or between the ages of 50 and 59 with his/her employer's consent as detailed in section 6.2, or at or after age 60, without his/her employer's consent. The benefits will be subject to reductions as detailed in section 7.6, if they are paid before the normal retirement date and the 85 year rule is not satisfied, although the former employing authority will have discretion to waive any reduction on compassionate grounds, on payment of the actuarial cost of early payment.

(Regulation 33)

Table 8.2*Early Leavers' Options***If a member has:**

Less than two years total membership and has not brought a transfer value into the LGPS(NI)	At least two years total membership or has brought a transfer value into the LGPS(NI)
<p>Either To take a refund of contributions less a deduction for tax and the cost of buying back into the State Second Pension Scheme (S2P). A refund cannot be paid if the member re-enters LGPS employment within one month and one day of leaving.</p> <p>Or To transfer an amount equal to the cash equivalent of the LGPS(NI) benefits to the new employer's scheme, into a personal pension plan, into a stakeholder pension scheme, or into a "buy-out" insurance policy.</p> <p>Or To defer making a decision until joining a new pension scheme or wanting to take a refund of contributions. If s(he) returns to LGPS(NI) employment, s(he) loses the right to a refund and the former period of membership will be aggregated with membership in the new LGPS(NI) employment.</p>	<p>Either To leave the accrued benefits in the LGPS(NI). The pension and lump sum will be calculated as described in the section on Retirement Benefits using the length of total membership up to the date that s(he) left the Scheme. This is known as having preserved benefits.</p> <p>Or To transfer an amount equal to the cash equivalent of the LGPS(NI) benefits to the new employer's scheme, into a personal pension plan, into a stakeholder pension scheme, or into a "buy-out" insurance policy.</p>

Note: It may be possible to make a transfer payment to an overseas pension scheme or arrangement.

8.4 Death of a preserved pensioner

Should a member die while his/her benefits are preserved the retirement lump sum will be paid as a death grant.

A widow's or widower's long-term pension will also become payable if the member were married at the time his/her benefits were preserved. The widow's pension is payable at the rate of one-half of her husband's preserved pension. The widower's pension is payable at the rate of one-half of his wife's pension in respect of membership after 1st April 1972 only. If the marriage took place after benefits were preserved, a widow's pension based on contracted-out membership after 5th April 1978, or a widower's pension based on membership after 5th April 1988, will be payable.

Long-term children's pensions will be payable for so long as children remain eligible following the death, as detailed in section 15. The pension is not calculated, however, against a notional entitlement. It is calculated instead against the pension payable if the preserved benefits been put into payment at the date of the death. If the pension would have been

calculated on a total membership of less than the shorter of ten years or the amount the member could have accrued had (s)he continued working to age 65, that amount is used to increase the pension for the purpose of calculating children's pension only.

(Regulations 41, 43 and 48)

8.5 Transferring pension benefits to another scheme

If a member is interested in transferring the value of his/her accrued pension rights to another occupational pension scheme, to a personal plan, to a stakeholder pension scheme or to a buy-out insurance policy, (s)he can ask for a transfer value quotation to be provided (known as the "cash equivalent" transfer value). Transfer values are calculated in accordance with the terms and conditions of the Local Government Pension Scheme Regulations (Northern Ireland) 2002 which comply with the requirements of the Pension Schemes Act 1993.

Only Scheme members who leave more than one year before normal retirement date can transfer their pension rights. The latest an option to transfer can be made is one year before normal retirement date, or six months after leaving the Scheme, if this is later.

(Regulations 120 and 121)

9. CALCULATION OF RETIREMENT BENEFITS

9.1 Standard Retirement Benefits

Retirement benefits are made up of:

- (a) a retirement pension which is taxable (stated as an annual figure, paid monthly in arrears);
- and
- (b) a lump sum retirement grant.

9.2 Standard Pension

The pension element is calculated as follows:

Total membership period $\times \frac{1}{80}$ \times pensionable pay
(Regulation 19)

9.3 Standard Lump Sum Retirement Grant

The retirement grant is calculated as follows:

Total membership period $\times \frac{3}{80}$ \times pensionable pay
(Regulation 19)

9.4 Pre-1 April 1972 Members (Male)

For men who were members of the Scheme before 1 April 1972 and who are, or were, married at some time after 1 April 1972, membership before 1 April 1972 is reduced to 89% of its actual length in determining their total membership period for the calculation of benefits. However, if they are paying additional contributions in respect of their pre-1972 membership, or were paying such contributions prior to 1 February 2003, only the portion of the pre-1972 membership which has not been uprated by additional contributions is so reduced.

(LGPS(Amendment No 2 and Transitional Provisions) Regulations (NI) 2002, Regulation 8)

9.5 Conversion of Lump Sum to Pension

A member, or a preserved member immediately before 1 February 2003, may elect to give up all or part of his/her lump sum Retirement Grant in order to receive a bigger pension (subject to Inland Revenue limits). In order to exercise this option, the member must notify the Committee, in writing, not more than three months before (s)he retires or the preserved benefits come into payment. The factors for converting lump sum into pension can be found in Part 2 of the Employers' Guide.

(Regulation 60)

9.6 Conversion of Pension to Lump Sum

A member, or a preserved member immediately before 1 February 2003, who has been a member of the Scheme continuously since before 17 March 1987 can elect to give up part of his/her pension (subject to contracting-out requirements) in order to increase his/her lump sum to the maximum permitted under Inland Revenue limits. In order to exercise this option, the member must notify the Committee, in writing, not more than three months before (s)he retires or the preserved benefits come into payment. The factors for converting pension into lump sum can be found in Part 2 of the Employers' Guide.

(Regulation 61)

10. ILL HEALTH RETIREMENT

10.1 Permanent Ill Health – More than two years’ membership

A pension and retirement grant are payable at any age on the grounds of permanent ill-health, provided that:

- (a) - the member has more than two years’ membership or has a transfer value credit;and
- (a) - an independent Occupational Health Physician appointed by the Committee certifies that the member is **permanently** incapable of discharging efficiently the duties of his/her current employment or any other comparable employment due to ill-health or infirmity of mind or body.

“Comparable employment” is defined as “*employment in which, when compared with the member’s employment –*

- (a) *the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the member’s ill-health or infirmity of mind or body;and*
- (b) *the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the member’s employment.”*

“Permanently incapable” means incapable until, at the earliest, the member’s 65th birthday.
(Regulations 29 and 98)

10.2 Enhanced Membership

Extra membership is awarded to members who have completed five or more years membership before retiring due to permanent ill-health. The additional period is calculated in accordance with the table below.

(Regulation 30)

Total Membership	Increased Membership Awarded
Between 2 and 5 years or less than 2 years with transfer in Between 5 and 10 years	Actual total membership only Total membership doubled
Between 10 and 13 ¹ / ₃ years	Total membership increased to 20 years
Between 13 ¹ / ₃ and 33 ¹ / ₃ years	Total membership increased by 6 ² / ₃ years
Between 33 ¹ / ₃ and 40 years	Total membership increased to 40 years
Over 40 years	Actual total membership only

The increased membership, however, must not exceed the **total membership** the member would have accrued had (s)he continued in employment until age 65.

10.3 Serious Ill Health

In cases of severe ill-health where the Committee's doctor certifies that the member's life expectancy is likely to be less than one year, the pension in excess of the Guaranteed Minimum which the Committee is obliged to pay under the Social Security legislation may be commuted and paid as a lump sum in addition to the retirement grant. The Guaranteed Minimum Pension is brought into immediate payment. Spouse's and children's pensions payable on the death of the member are calculated with regard to the ill-health pension which was payable before commutation took place.

(Regulation 52)

10.4 Permanent Ill Health – Less than 2 years' membership

A member who qualifies for benefits on the grounds of permanent ill-health, but who does not have two years' membership or a transfer value credit is entitled to:

- (a) a refund of contributions, if (s)he has less than one year's membership;
- (b) an ill health grant, calculated as follows, if (s)he has more than one, but less than two years' membership.

The calculation of an ill health grant is the **lesser** of:-

- (a) total membership period X $\frac{1}{12}$ X pensionable pay
- or**
- (b) total potential membership X $\frac{3}{80}$ X pensionable pay

e.g. for a member who is aged exactly 64, who has completed 1 year 181 days membership and whose pensionable pay is £15,000, the amount calculated under (b) would be paid as it is the lesser:

$$(a) \text{ 1 year 181 days } \times \frac{1}{12} \times \text{£15,000} = \text{£1,869.86}$$

is greater than

$$(b) \text{ 1 year 181 days } \times \frac{3}{80} \times \text{£15,000} = \text{£841.44}$$

Therefore, amount (b) is payable.

If a refund of contributions is greater than (a) or (b), the refund will be paid instead.

(Regulation 30)

10.5 Applying for Ill Health Benefits

The employer must submit a Request for Medical Examination Form LGS22, accompanied by a job description for the post in question and medical evidence which indicates the *permanence* of the illness or condition from which the applicant suffers. "Permanent" should be construed as "lasting until at least age 65". On receipt of this documentation, NILGOSC will arrange an appointment for a medical examination by one of its Occupational Health Consultants, who may also, if he considers it appropriate, seek medical reports from other sources, e.g. the applicant's GP, Hospital Consultant, or other medical specialist opinion.

NILGOSC will inform the employer of the outcome of the medical examination. If the member has been found to be medically unfit and employment has not already been terminated, the employer should then forward a completed Leavers' Form LGS15 and Claim for Benefits Form LGS51.

11. VOLUNTARY EARLY RETIREMENT

11.1 Eligibility for Voluntary Early Retirement

Members who retire before becoming entitled to immediate benefits as described in Section 7, may apply for early payment of their benefits. To be eligible for the early payment of benefits members must:

- (a) have attained age 50; and
- (b) have at least two years' membership or a transfer value credit; and
- (c) apply in writing for their employer's or former employer's consent if they are aged under 60 or apply in writing to the Committee if they are aged over 60.

(Regulation 33)

11.2 Reduction to Benefits

The pension and retirement grant are reduced if the sum of the member's age and length of membership in complete years is less than 85 (see Section 7.6). The factors for calculating the reduction are included in Part 2.

(Regulation 33)

11.3 Minimum Benefits - Male Members

The pension of a male member cannot be reduced to less than:

His period of membership in contracted-out employment between 17 May 1990 and 30 April 1995 $\times \frac{1}{80} \times$ Pensionable Pay

In addition, when he attains age 65, his reduced pension must be increased to the level of his Guaranteed Minimum Pension (GMP) if it is less (see Section 21.2).

(Regulation 39)

11.4 Minimum Benefits - Female Members

The pension of a female member cannot be reduced to less than:

Her period of membership in contracted-out employment between 6 April 1978 and 30 April 1995 $\times \frac{1}{80} \times$ Pensionable Pay

In addition, at state pensionable age her reduced pension must be increased to the level of her Guaranteed Minimum Pension (GMP) if it is less (see Section 21.2).

(Regulation 39)

11.5 Cost to Employer

The payment of reduced benefits (or unreduced benefits where the 85 year rule is satisfied but the member is aged under 60) will normally involve a cost to the employer. The employer may also, on compassionate grounds (see section 6.2), pay an additional cost to have the reduction waived. Employing authorities are therefore strongly advised to obtain an estimate of the cost involved from NILGOSC before consenting to the voluntary early retirement of members under age 60.

12. REDUNDANCY AND EFFICIENCY RETIREMENT

12.1 Eligibility for Redundancy and Efficiency Retirement Benefits

When a member who is aged over 50 is made redundant or retired early in the interests of efficiency, (s)he is entitled as of right to the immediate payment of his/her pension and lump sum retirement grant, provided that (s)he has been a member of the Scheme for more than two years or has a transfer value credit. The employing authority is liable for the actuarial cost of the early payment of unreduced benefits. Employing authorities are therefore strongly advised to obtain an estimate of the cost involved from NILGOSC before proceeding with redundancy or efficiency retirements of members over age 50.

The factors for calculating the cost of early payment of benefits are included in Part 2.
(Regulation 28)

12.2 Calculation of Redundancy and Efficiency Benefits

The member is entitled to payment of the benefits which (s)he has accrued up to the date of leaving, i.e:

Pension = Total Membership X $\frac{1}{80}$ X Pensionable Pay

Retirement Grant = Pension X 3

(Regulation 19)

12.3 Granting Additional Membership

The employing authority may grant additional membership to a member who leaves employment on or after his/her 50th birthday (see section 6.3). This involves an additional cost to the authority. Alternatively, authorities which are listed in Schedule 3 of the Local Government (Early Termination) (Discretionary Compensation) Regulations (Northern Ireland) 2003 may award compensatory added years, in which case the authority pays the additional lump sum retirement grant direct to the member and meets the ongoing cost of the additional pension on a monthly basis (see Part 4 of the Employer's Guide).

(Regulation 54 and Part IV of the Local Government (Early Termination) (Discretionary Compensation) Regulations (Northern Ireland) 2003)

12.4 Conversion of Compensatory Added years To Scheme Membership

An employing authority which has granted compensatory added years in the past to a former member may extinguish the liability for future pension payments by resolving to increase his/her membership by all or part of the period credited to him/her. The employer would then have to pay the actuarial cost of funding the additional pension entitlement to the Committee.

(Regulations 54 and 130)

12.5 Applying for Payment of Redundancy/Efficiency Benefits

Leavers' Form LGS15 is required from the employing authority and Claim for Benefits Form LGS51 from the member. In completing Form LGS15, care should be taken to indicate, in the appropriate section, whether added years are being awarded, and if so, whether they are awarded under Regulation 55 or under the Compensation Regulations.

13. DEATH GRANTS

13.1 Nomination of Beneficiary

A death grant will normally be paid to the next of kin or personal representatives of the deceased. However, a member, a former member with preserved benefits (“preserved pensioner”) or a pensioner may nominate, in writing, any person(s) or body(ies) (s)he wishes to be the beneficiary(ies) of his/her death grant. Form LGS 20 should be used for this purpose.

The Committee will normally have regard for such a nomination when it pays the death grant, but it is not bound to do so. The Committee has absolute discretion with regard to whom, and in what shares, it makes payment of the death grant (this is necessary to exempt such grants from Inheritance Tax).

It is therefore essential that members who make a nomination update it if their circumstances change.

It should be noted that when a member who is paying AVCs dies in service, the accumulated value of his/her AVC fund is payable to his/her personal representatives, regardless of any nomination which (s)he may have made in respect of the death grant.

(Regulations 41 and 66)

13.2 Calculation of Death Grant - Death of a Member

The death grant is the greater of:

- (a) twice the deceased’s pensionable pay; or
- (b) Period of membership $\times \frac{3}{80} \times$ pensionable pay

(Regulation 41)

13.3 Calculation of Death Grant - Death of a Preserved Pensioner

A death grant equal to the value of the preserved lump sum retirement grant plus pension increases to the date of death is payable on the death of a preserved pensioner.

(Regulation 41)

13.4 Death Grant – Death of a Pensioner

When a pensioner dies, the death grant is calculated as follows:

annual pension $\times 5$
LESS any payments of pension made

(Regulation 41)

13.5 Applying for Payment of Death Grant – Death in Service

When a member dies in service the employer must complete Leaver’s Form LGS15 and forward it to NILGOSC as soon as possible. Please check with NILGOSC whether the member has nominated any beneficiaries. Where no nomination exists, please forward Form LGS18, Death Benefits Claim Form to the next of kin.

14. WIDOW'S/WIDOWER'S PENSION

14.1 Entitlement to Spouse's pension

A spouse's pension is payable to the widow or widower of a Scheme member, pensioner or preserved pensioner provided that, at the date of death, they were not divorced. Common law spouses are not entitled to a spouse's pension.

14.2 Widow's Pension

A widow's pension is calculated with reference to the whole period of her husband's membership, provided that she was his wife at some time while he was in local government employment after 1 April 1972. If their marriage took place after he retired or left the Scheme, the widow's pension is based on his period of membership after 5 April 1978.

(Regulation 44)

14.3 Widower's Pension

A widower's pension is calculated with reference to the period of his wife's membership from 1 April 1972, unless she has elected to have her membership before 1 April 1972 counted for the purpose of calculating her widower's pension (by paying additional contributions or taking a reduction in her retirement grant). Her husband must have been married to her at some time when she was in local government employment after 1 April 1972. If their marriage took place after she retired or left the scheme, the widower's pension is based on her period of membership after 5 April 1988. If a female member left the Scheme or retired on or before 5 April 1988, her husband has no entitlement to a widower's pension.

(Regulation 44)

14.4 Surviving spouse's short-term pension

If an active member or a pensioner dies leaving a surviving spouse, the spouse is entitled to a short-term pension, payable for three months after the death, or for six months if there are eligible children in the care of the spouse. The short-term pension is payable at the rate of the member's final pay, in the case of the death of an active member, or at the rate of pension immediately before the death in the case of a pensioner. A pensioner includes a person whose retirement pension has been commuted under Regulation 52 (exceptional ill health – see section 10.3).

(Regulation 42)

14.5 Surviving spouse's long-term pension

The surviving spouse of a member, pensioner or preserved pensioner is entitled to the payment of a long-term pension. In the case of a member or pensioner, the long-term pension will begin when the short-term pension ceases. In the case of a preserved pensioner, the long-term pension begins on the day following the date of death. The long-term spouse's pension payable on the death of a pensioner who retired on or after 1 April 1972 or preserved pensioner is half of the pension due to the deceased pensioner or preserved pensioner. The long-term pension due to a surviving spouse on the death of an active member who had at least two years' membership of the Scheme, or a transfer value credit, is equal to half the ill-health pension to which the member would have been entitled if (s)he had retired due to ill health on the date of death. If the deceased member had less than two years' membership the spouse's long-term pension is:

$$\frac{\text{the deceased's total membership}}{160}$$

(Regulation 43)

14.6 Applying for widow's/widower's pension

When an active member dies in service, the employing authority should issue Form LGS18, Claim for Death Benefits to the surviving spouse. This should be returned to NILGOSC with a copy of the Death Certificate, Marriage Certificate and surviving spouse's Birth Certificate.

15. CHILDREN'S PENSIONS

15.1 Meaning of "child"

A child is defined as:

- (a) a person who is under 17; or
- (b) if over 17, has continuously been in full-time education or training since age 17, with the exception of a period which the Committee has in its discretion to disregard (if it is satisfied that the education or training ought not to be regarded as completed); or
- (c) is permanently physically or mentally incapacitated and the incapacity arose before (s)he attained age 17 or completed full-time education or training.

(Regulation 46)

15.2 Meaning of "Eligible Child"

The child of a deceased person who was in local government employment at the time of his/her death and was a member or former member is eligible to receive a child's pension if:

- (a) (s)he is the deceased's legitimate or adopted child; or
- (b) a child who was wholly or mainly dependent on the deceased at the time of death or, where the child is born after the member's death, who would have been so dependent if (s)he had been born before or on the date of the member's death.

(Regulation 46)

15.3 Children's short-term pensions

When an active member or pensioner dies leaving one or more eligible children, they are entitled to a children's short-term pension, equal to the rate of the member's final pay, or to the pensioner's pension at the time of his/her death, for six months provided that:

- (i) where a surviving spouse's short-term pension is payable and one or more of the children are in the care of the surviving spouse, the children's short-term pension is reduced by the amount of the spouse's short-term pension;
- (ii) where a surviving spouse's short-term pension is payable but the children are not in the care of the surviving spouse, the children's short-term pension is payable for three months.

A pensioner includes a person whose retirement pension has been commuted under Regulation 52 (exceptional ill health – see section 10.3).

(Regulations 47)

15.4 Children's long-term pension

Children's long-term pension is calculated as a fraction of the ill-health pension (see section 10) to which the deceased member would have been entitled if (s)he had retired due to permanent ill health on the date of death. In the case of a pensioner or preserved pension, they are calculated as a fraction of the pension. The fraction is as follows:

- (i) one child and a surviving spouse's pension is payable, one quarter;
- (ii) one child, no surviving spouse's pension payable, one third;
- (iii) two or more children and a surviving spouse's pension payable, one half;
- (iv) two or more children, no surviving spouse's pension payable, two thirds.

If the deceased's pension entitlement is reduced as a result of a pension sharing order, the children's pension is calculated on the pension entitlement the deceased would have had if the sharing order had not been made.

(Regulation 48)

15.5 Minimum Period of Membership for calculating Children's Pension

If the lesser of:

- (a) 10 years; and
- (b) the deceased's potential period of membership to age 65

is greater than the period of membership which would have been taken into account for calculating a deceased member's ill-health pension at the date of death, or the period which was used to calculate the retirement pension of a pensioner or preserved pensioner, then the lesser of (a) and (b) is used in calculating the children's pension(s).

(Regulation 48)

15.6 Duration of long-term pension

Children's pensions are payable until the recipients cease to be children within the definition at paragraph 15.1 above. The pension of a child who is over 17 and who is in paid training will be reduced or suspended if the remuneration exceeds the indexed training rate (£1,450 plus pension increases from 1 April 1994).

(Regulation 48)

15.7 Discretions as to payment of Children's Pension

The Committee may apportion a children's pension among the eligible children in such shares as it thinks fit and may pay the pension to a person other than the eligible child to be used for the child's benefit.

(Regulation 49)

15.8 Applying for payment of Children's Pension

Application for payment of children's pension is made on Form LGS18, Claim for Death Benefits. It must be accompanied by the children's birth certificates and, in the case of eligible children over age 17, a letter from their educational establishment stating that they are in full time education, or medical evidence of their permanent incapacity.

16. SURRENDER OF PENSION

16.1 Increasing spouse's or dependant's benefits

A member may surrender part of his/her pension in order to increase the pension payable on his/her death to his/her spouse or a dependant.

(Regulation 36)

16.2 Election to Surrender

An election to surrender part of the pension can be made not more than one month before or one month after the member retires.

(Regulation 36)

16.3 Good Health Medical

A member making an election to surrender must be in good health and is required to undergo a medical examination by the Committee's doctor at his/her own expense.

(Regulation 36)

16.4 Amount of Surrender

The amount surrendered must be in complete pounds. A member may not surrender more than:

- (a) one third of his/her retirement pension; or
- (b) an amount which would reduce his/her own retirement pension to less than the rate of the pension which would become payable to the beneficiary; or
- (c) an amount which would reduce his/her own pension to less than the rate of 1/80th of pensionable pay multiplied by the length of his/her period of membership in contracted-out employment after 5 April 1978 or to less than the amount of his/her guaranteed minimum pension.

The surrender must not result in a pension being paid to the beneficiary of less than the amount specified in guidance issued by the Government Actuary.

(Regulation 36)

16.5 Surrender ceases to have effect

A surrender of pension does not take effect if either the member or the beneficiary dies before the member retires, and it ceases to have effect if the beneficiary dies before the member.

(Regulation 36)

17. FORFEITURE OF BENEFITS

17.1 Circumstances in which Benefits may be Forfeited

In exceptional cases where employment is terminated as a result of an employee being convicted of an offence so serious that it:

- was gravely injurious to the State, or
- would lead to a serious loss of confidence in the public service

the employer may apply to a Minister of the Crown for a certificate to the effect that the member's rights under the Scheme are forfeited. An application must be made within three months from the date of conviction and a copy sent to both the convicted person and the Committee.

(Regulation 114)

17.2 Recovery of Monetary Obligation or Financial Loss

The Scheme rules allow an employer to recover a monetary obligation from an employee's pension benefits when:

- Employment has been terminated as a consequence of a criminal, negligent or fraudulent act or omission by the employee in connection with his employment; and
- The ex-employee has incurred a monetary obligation to his employer *as a consequence of his actions*.

The employer must give the member or former member at least three months' warning of its intention to recover and a statement showing a calculation of the amount to be recovered and the effect it will have on the pension benefits. NILGOSC will be able to assist in this calculation.

If the calculation is disputed, no recovery action can take place until the matter has been referred to a court or arbitrator to decide.

In cases where no monetary obligation is incurred but there is a financial loss as a result of an offence involving fraud or grave misconduct in connection with the employment, the employer may apply to the Committee for reimbursement.

(Regulations 116 and 118)

17.3 Protection of GMP rights

Except where an act of treason has been committed or the former member has been sentenced to a minimum of ten years' imprisonment for offences under the Official Secrets Acts, his/her guaranteed minimum pension and any widow's or widower's guaranteed minimum pension can not be forfeited.

(Regulation 115)

18. PURCHASE OF ADDITIONAL PERIOD OF MEMBERSHIP

18.1 Additional Membership Period

A member may elect to pay additional contributions in order to count an additional period of membership. This additional period is taken into account in calculating the amount of his/her benefits, but not for the purpose of determining entitlement to any benefit. It does, however, count towards determining when the 85 year rule is satisfied (see Section 11)

(Regulations 8,9 and 57)

18.2 Restrictions on Additional Membership Period

The maximum amount which may be purchased is the lesser of the period by which the person's potential membership falls short of 40 years and his/her potential membership to his/her normal retirement date. Where a member has, or has transferred in, pension rights in another pension scheme or arrangement, an actuary's certificate may be required to ensure that Inland Revenue maxima are not being exceeded.

In addition member contributions may not exceed 15 per cent in total (including 6%, or 5% for members with lower rate rights, normal contributions).

(Regulation 15 and Schedule 4)

18.3 Benefits

The benefits to which a member will become entitled by purchasing an additional membership period are based on his/her age on joining the Scheme (or on joining another statutory scheme -Police, Fire, Teachers', Health, Civil Service or GB Local Government if (s)he transferred these benefits to the NILGOS scheme).

If (s)he was under 45 on joining, the additional membership period creates normal benefits, i.e.

Pension of 1/80th of Pensionable Pay

Lump Sum of 3/80ths of Pensionable Pay

Spouse's pension of 1/160th of Pensionable Pay for each year of additional membership purchased.

If (s)he was over 45 at the time of joining, the additional membership period creates:

Pension of 1/60th of Pensionable Pay

No Lump Sum

Spouse's pension of 1/160th of Pensionable Pay for each year of additional membership purchased.

(Regulations 56 and 59)

18.4 Cost of Additional Membership Period

The additional contributions required to purchase a period of additional membership are determined by the member's age on his/her next birthday following the election to purchase and are payable until his/her normal retirement date or, if earlier his/her last birthday before the date after his/her 60th birthday when the sum of his/her age and total membership is 85 years or more. The factors prepared by the Government Actuary used in calculating the cost of buying additional membership are included in Part 2 of this Guide.

(Regulation 57)

18.5 Part-time Employees

Since additional contributions paid by part-time employees are a percentage of their actual pensionable pay, the additional period of membership purchased is counted in the same proportion to whole-time membership as their actual part-time hours bear to whole-time employment.

(Regulation 58)

18.6 Election to Purchase Additional Membership

An election to purchase an additional period of membership should be made three months before the member's birthday, as it is subject to completion of a satisfactory medical examination by the Committee's doctor, which is at the member's own expense.

(Regulation 57)

18.7 Lump Sum Payment

A member who joined the Scheme before 1 June 1989, may pay a lump sum to purchase any additional period of membership which s(he) is unable to purchase because of the 15 per cent limit on contributions. The lump sum due must be calculated in a way approved by the Government Actuary, who has not yet issued guidance.

(Schedule 4)

18.8 Uncompleted Payments

Should the member subsequently die or retire through ill-health, the additional contributions which (s)he was making are treated as having been completed.

A member who is purchasing additional membership has the option of paying off any outstanding contributions by means of a lump sum payment if (s)he is made redundant or retired on efficiency grounds at age 50 or over provided that this is at least twelve months after making the election to purchase. The outstanding contributions must be paid within three months from the date of redundancy.

If the member leaves the Scheme before retirement for any other reason or notifies the Committee in writing that (s)he wishes to discontinue payment, (s)he will receive an increase in his/her membership period proportionate to the length of time the additional contributions were paid.

(Regulation 84)

19. ADDITIONAL VOLUNTARY CONTRIBUTIONS (AVCs)

19.1 What are AVCs?

Members may pay additional voluntary contributions (AVCs) to top up their pension or to provide increased life cover in the event of their death. Since AVCs attract tax relief at the highest rate paid by the member, they may be regarded as an attractive means of saving for retirement. AVCs are invested with an insurance company rather than being retained in the NILGOS pension fund. A choice of investment options is offered. On retirement, provided that the member is entitled to the immediate payment of benefits, the “pot” of money s(he) has built up can be used to purchase an annuity, either from the AVC provider or another insurance company, or can be converted into an additional amount of pension from the LGPS(NI). If pension from the LGPS(NI) is chosen, it will automatically include a surviving spouse’s and children’s pension and will increase annually in line with the Retail Prices Index (see Section 22). AVCs cannot be used to provide lump sum benefits (except in the case of life cover). A member may delay deciding how to use his/her AVC fund until age 75.

If a member leaves before retirement, his/her AVC account must mirror the main scheme benefits e.g. if the main scheme benefits are preserved, the AVCs will also be preserved, and if the main scheme benefits are transferred to a new employer’s pension scheme, the AVCs must also be transferred to the new employer’s AVC scheme. In the event that the member dies in service, the accumulated value of his/her AVC fund is payable to his/her personal representatives.

(Regulations 62 to 66)

19.2 Limits on AVCs

AVCs are subject to the following limits:

- (a) the AVC contributions together with normal contributions and any other additional contributions which the member may be paying must not exceed 15 per cent of gross earnings (AVCs may be paid on remuneration which is not considered pensionable for other purposes of the Scheme); and
- (b) at retirement, the total of all pension benefits (including the pension equivalent of the lump sum retirement grant) must not exceed two-thirds of final remuneration. If there is an excess, it must be refunded to the member after deducting a special charge for income tax.

(Regulation 15 and Schedule 4)

19.3 Administration of AVC Scheme

- (a) The LGPS(NI) currently has two AVC providers, Prudential and Equitable Life. The Equitable Life AVC facility is now closed to new contributors. Members who wish to pay AVCs to Prudential must complete the application form included in the Prudential AVC Guide. This is available from Prudential (Telephone The Pension Connection on 0845 607 00 77) and should be returned directly to them.
- (b) Prudential will then notify the employing authority and NILGOSC that AVC payments are to commence.
- (c) AVCs may be a fixed amount or a percentage of remuneration. Lump sum payments can also be made at any time during the tax year and it is also possible to make a special

one-off payment to cover any unexpected increases in remuneration (e.g. overtime or bonus).

- (d) The Committee will advise the employing authority to commence deductions.
- (e) A member may at any time increase or decrease the amount of his/her payment or may stop paying altogether. Any variations in the amount of the AVC payment must be notified to Prudential. Any variations in the Equitable Life AVC Scheme should be notified to NILGOSC.
- (f) The employing authority will make the deductions from the member's gross pay (i.e. before tax). AVCs must be identified separately from Scheme contributions and additional contributions on the monthly remittance Form LGS6. Prudential AVCs are remitted directly to the company and Equitable Life AVCs are forwarded to NILGOSC.
- (g) On the Monthly Remittance Form LGS6 (or whatever substitute documentation the employing authority may have agreed with the Committee), employers must complete a listing of members paying AVCs to Equitable Life, detailing the pension reference number, payroll number and the amount deducted. If a member has chosen to contribute to more than one of the investment options, then the AVC amount for each investment must be shown separately. AVCs for life cover must also be stated separately.
- (h) At 31 March each year, employers must send to the Committee, on the AVC Annual Return Form (AVC 7), the details of the total AVCs paid and the total gross taxable remuneration for each employee. Separate AVC 7 Forms should be completed for Prudential and Equitable Life.
- (i) An annual statement will be provided by the insurance companies for each AVC contributor which will give members details of the contributions paid and the value of their AVC fund at 31 March. These statements will be forwarded directly to members.

20. INTERNAL DISPUTE RESOLUTION PROCEDURES

20.1 Requirement for Internal Dispute Regulations

The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 require all occupational schemes to have a two-stage procedure for resolving disputes between, on the one hand, the managers of the Scheme, and on the other, active, preserved and pensioner members, prospective members, and the surviving spouses and dependants of deceased members. The regulations specify the timescales for dealing with each stage of a complaint.

20.2 Decisions Made By Employing Authority

An employing authority is responsible for deciding the following:

- (a) whether a member is an officer or a manual worker;
- (b) whether a member is a whole-time or part-time employee and whether the employment is of a casual nature;
- (a) in the case of a part-time employee, the proportion of the hours of a comparable whole-time employment (s)he works and, where appropriate, the average of the weekly hours worked in a given period.
- (b) which of his/her emoluments are pensionable.

(Regulation 99)

20.3 Decisions Made By Committee

The Committee is responsible for deciding the following:

- (a) what previous service a member is entitled to count as a period of membership or a period which determines his/her eligibility for benefits;
- (b) whether, and if so what, periods of membership as a part-time employee are included in such a period;
- (c) what proportion of whole-time membership any such period represents;
- (d) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the National Insurance Act (Northern Ireland) 1966;
- (e) what rate of contribution the employee is liable to pay;
- (f) whether a member is entitled to count any added years or additional period, and if so, how many, as a period of membership;
- (g) whether a member is a Class A, Class B or Class C member for the purposes of, deciding the Inland Revenue maxima which apply to his/her benefits;
- (h) whether a member is entitled to a benefit, including a return of contributions, and the amount of the benefit.

(Regulation 99)

20.4 Decisions as to Permanent Ill-health

For the purposes of determining whether a member is entitled to an ill-health pension or ill-health grant, the decision as to whether (s)he is permanently incapable by reason of ill-health or infirmity of mind or body, which is expected to persist at least until the member's 65th birthday, is taken by an independent medical practitioner, qualified in occupational health medicine, appointed by the Committee.

(Regulation 98)

20.5 Disagreement with Decision - First Stage

The Committee must appoint such person(s) as it considers suitably qualified to resolve disagreements.

Where a complainant disagrees with any decision made by the Committee, as mentioned in paragraphs 20.3 and 20.4 above, (s)he may, in the first instance, refer the matter to an appointed person for a decision on the disagreement. An application for a decision must be made in writing, giving full particulars of the complainant and the complaint, within six months of the act or omission complained of.

The appointed person must give written notice of his/her decision, to include a statement of the decision, references to any legislation relied on, references to the regulations relied on and a reference of the right of the complainant to refer the disagreement for reconsideration by the Committee, within two months of receiving the complaint. If a decision cannot be given within this period, the appointed person must issue an interim reply stating the reason for the delay and an expected date for issuing the decision. The appointed person is currently the Secretary to the Committee.

(Regulations 101 to 103)

20.6 Disagreement with Decision - Second Stage

If the complainant is not satisfied with the appointed person's decision, (s)he may, within six months of the notification of the decision, make written application to the Committee to reconsider the decision. The application must include full particulars of the complainant and the complaint, a copy of the notice of the appointed person's decision and a statement of the reasons why the complainant is dissatisfied with the decision.

The Committee must issue written notice of its decision within two months of receiving the complaint, which must include a statement of the decision and an explanation as to whether, and if so, to what extent the decision replaces the decision of the appointed person, references to any legislation and regulations relied on, and a statement referring the member to the Office of the Pensions Advisory Service (OPAS) and the Pensions Ombudsman if (s)he is still dissatisfied. If the Committee is unable to issue a decision within two months, it must issue an interim reply stating the reasons for the delay and giving an expected date for issuing a decision.

(Regulations 104 and 105)

20.7 OPAS and the Pensions Ombudsman

The Office of the Pensions Advisory Service exists to give help and advice at any time to people who have problems with their pension and to settle disputes which are not resolved by direct negotiation. A dispute may be referred to it at any time. The Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law. The Pensions Ombudsman will not normally investigate any complaint unless it has first been referred to OPAS.

Both OPAS and the Pensions Ombudsman may be contacted at: 11 Belgrave Road London SW1V 1RB Tel: 0845 601 2923 (OPAS) 0207 834 9144 (Pensions Ombudsman).

20.8 Disagreement with Employing Authority's Decision

Where a complainant is dissatisfied with a decision described in section 20.2, made by his/her employing authority, (s)he may refer the question to the county court for determination.

(Regulation 107)

21. CONTRACTING-OUT REQUIREMENTS

21.1 State Pension Entitlement

A member of the NILGOS scheme is entitled to the flat rate State Retirement Pension, but is contracted-out of the State Second Pension (S2P). This means that (s)he pays a lower rate of National Insurance contributions (normally "D" rate) and the NILGOS pension takes the place of the State Second Pension (s)he would otherwise have built up. From the 2002/03 tax year, scheme members who earn less than £24,600 per year (at the 2002/03 value) will receive a top-up from the Government to their State Pension.

21.2 Guaranteed Minimum Pension

In respect of periods of membership between 6 April 1978 and 5 April 1997, as a condition of contracting-out, the Scheme must guarantee that the pension payable at state retirement age must not be less than the earnings related pension which would have been payable under the State Scheme (SERPS). As SERPS pensions are calculated by reference to earnings between lower and upper earnings limits, the NILGOS pension is almost always greater than the potential SERPS pension. However, in a few cases, where earnings for National Insurance purposes were much higher than pensionable pay (for example, when members work large amounts of non-contractual overtime), the notional SERPS pension may be higher. In this case NILGOS must pay the higher level of pension from state pension age. This is known as the Guaranteed Minimum Pension (GMP).

21.3 Post-1997 Rights

For periods of membership after 6 April 1997, no further GMPs are built up. Instead, the Scheme must satisfy a test of overall scheme quality prescribed by the Pensions Act 1995.

21.4 ECON and SCON

The Employer's Contracting-out Number (ECON) which must be stated on National Insurance deduction certificates submitted to the Inland Revenue is E3900002R. The Scheme Contracting-out Number (SCON) is S2734012L.

21.5 Further Information

Further information with regard to contracting-out can be found in the Inland Revenue Manuals for Salary-related Schemes, Number CA14 (issued June 2002). A copy can be downloaded from the Inland Revenue website - see www.inlandrevenue.gov.uk/leaflets/nic.htm.

22. PENSION INCREASES

22.1 Preserved Benefits

Preserved benefits are increased annually in April in line with inflation (as measured by the Retail Prices Index) in accordance with the Pensions Increase Order (Northern Ireland) 1971.

22.2 Pensions in Payment

Pensions in payment are also increased annually in April, with the exception of pensions arising from redundancy or retirement in the interest of the efficient exercise of the employing authority's functions where the recipient is under age 55. In these cases, when the recipient attains age 55, the pension is uprated by all the increases which have applied from the date employment ceased. No arrears arising from this increase are payable for the period before age 55.

22.3 New Pensioners

Members who have retired since the last pension increase date will receive a pro-rata amount of that year's increase at their first pension increase date in the April following their retirement.

22.4 Operation of GMP

At State Pension Age (age 60 women, age 65 men), part of the pension increase is paid by the state and is added to the pensioner's basic state retirement pension.

The part of the pension increased by the state is known as the Guaranteed Minimum Pension (GMP) (see Section 21). It is calculated in two parts. The first part covers contracted-out membership between 6 April 1978 and 5 April 1988. The Government pays the full amount of increase on this part. The second part covers the period from 6 April 1988 to 5 April 1997. The Scheme pays the first 3 per cent of any increase on this part, and the State pays the remainder, if inflation is higher than this amount. The Scheme pays the full amount of increase on the pension in excess of the GMP.