

Draft Regulations laid before the Assembly under section 24 of the Public Service Pensions Act (Northern Ireland) 2014, for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No. 0000

PUBLIC SERVICE PENSIONS

The Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015

Made - - - -

Coming into operation-

1st April 2015

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(f), 2(1) and 3(1), (2), (3)(a) and (4) of the Public Service Pensions Act (Northern Ireland) 2014⁽¹⁾.

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

In accordance with section 3(5) of that Act, the Department of Finance and Personnel has consented to the making of these Regulations.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Firefighters' Pension Scheme (Consequential Provisions) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

Interpretation

2. In these Regulations—

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993⁽²⁾;

“the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014;

(1) 2014 c.2 (N.I.).

(2) 1993 c.49

“the new scheme” means the pension scheme established by regulations made under section 1(1) and (2)(f) of the 2014 Act for the payment of pensions and other benefits to or in respect of fire and rescue workers; and

“old scheme” means the scheme constituted by the Firefighters’ Pension Scheme Order (Northern Ireland) 2007(3) or the scheme constituted by the New Firefighters’ Pension Scheme Order (Northern Ireland) 2007(4).

PART 2

Modification of contracting-out provisions

Application of this Part

3. This Part applies where—

- (a) an election is made under section 7 (elections as to employments covered by contracting-out certificates) of the 1993 Act(5) in relation to persons who become members of the new scheme on or after 1st April 2015 and before 6th April 2016 (whether or not any of those persons are members of an old scheme); and
- (b) the new scheme satisfies the requirements of section 5 (requirements for certification of schemes) of the 1993 Act(6).

Contracting-out

4.—(1) Part 2 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(7) (certification of employments) is modified as follows in its application to the new scheme.

(2) The requirements in regulation 2(1)(a) (making of elections for the issue of contracting-out certificates) and regulations 3 (notices by employers of intended election) to 5 (time for making an election) do not apply.

(3) In regulation 6 (information to be included in an election)—

- (a) paragraph (1) is to be read as though, for sub-paragraphs (a) to (f), there were substituted—
 - “(a) the name by which the new scheme is to be known;
 - (b) the name by which the old schemes are known; and
 - (c) any other information necessary to enable the Commissioners for Her Majesty’s Revenue and Customs to identify the old schemes.”; and
- (b) paragraphs (2) and (3) do not apply.

(3) S.R. 2007 No. 144, amended by S.R. 2008 No. 382, S.R. 2012 No. 161, S.R. 2013 No. 85, S.R. 2014 Nos. 56 & 169 and SR 2015 Nos. 8 & 11

(4) S.R. 2007 No. 215, amended by S.R. 2008 No. 381, S.R. 2012, No. 162, S.R. 2013 Nos. 84 and 172, S.R. 2014 Nos. 57 & 168 and SR 2015 Nos. 9 & 10.

(5) Section 7 was amended by Articles 1 and 3 of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).

(6) Section 5 was amended by Articles 133 and 147 of, and Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); Articles 1 and 3 of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); Article 260 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), Article 8(2) of S.I. 2006/745, sections 12, 13 and 19 of, and Schedules 4 and 6 to, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)).

(7) S.R. 1996 No. 493. Amendments were made by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), and by S.R. 1997 No. 160, S.R. 2002 No. 109, S.R. 2005 No. 568, S.R. 2012 Nos. 120 and 124 and S.R. 2014 No. 79. By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), references to the Commissioners of Inland Revenue are to be taken as references to the Commissioners for Her Majesty’s Revenue and Customs.

PART 3

Modification of early leaver and other provisions

Application of this Part

5. This Part applies where a person (P)—
- (a) is a member of an old scheme whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2014 Act (final salary link);
 - (b) is a member of the new scheme by virtue of pensionable service for the new scheme; and
 - (c) is a person to whom paragraph 1 or 2 of Schedule 7 to the 2014 Act applies by virtue of that person's pensionable service for the new scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.

Certification

6.—(1) Section 11A of the 1993 Act⁽⁸⁾ (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable service under the scheme is to be taken as a reference to pensionable service either for the old scheme or for the new scheme.

Preservation of benefit

7.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

- (2) In the application of that Chapter to the old scheme—
- (a) in section 66⁽⁹⁾ (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;
 - (b) in section 67(1) (basic principle as to short service benefit)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;
 - (iii) a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;
 - (iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
 - (c) in section 67(5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;

⁽⁸⁾ Section 11A was inserted by Article 29 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I.1999/3147 \(N.I. 11\)](#)).

⁽⁹⁾ Section 66 was amended by Article 2 of, and paragraph 12 of the Schedule to, the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) ([S.R. 2005 No. 434](#)).

- (d) in section 67(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old and new schemes taken together; and
 - (e) in sections 68(2) (no discrimination between short service and long service beneficiaries), 70(6) and (7) (computation of short service benefit), 71(3) and (4) (credits) and 72(1) and (3) (pension increases), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme.
- (3) In the application of that Chapter to the new scheme—
- (a) in section 66, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;
 - (b) in section 67(1)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;
 - (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,
 and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
 - (c) in section 67(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the new scheme or for the old and new schemes taken together; and
 - (d) in section 70(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service for the old scheme.

Revaluation of preserved benefit

8.—(1) Chapter 2 of Part 4 of the 1993 Act (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

- (a) in section 79(1)(a)(ii)(**10**) (scope of Chapter 2), the reference to the date on which P's pensionable service ends is to be taken as a reference to the date on which P's pensionable service ends in relation to the new scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

Protection of increases in guaranteed minimum pensions

9.—(1) Chapter 3 of Part 4 of the 1993 Act (protection for early leavers: protection of increases in guaranteed minimum pensions (“anti-franking”)) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

(10) Section 79 was amended by Article 74(1) of, and paragraph 20 of Schedule 9 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraph 21 of Schedule 8 to, the Public Service Pensions Act (Northern Ireland) 2014 (c.2 (N.I.)).

- (a) in section 83(1)(a)(i)(11) (general protection principle), the reference to the time when P ceases to be in contracted-out employment by reference to a scheme is to be taken as a reference to the time when P ceases to be in employment which is contracted-out by reference to the new scheme; and
- (b) subsequent references to “the cessation date” are to be construed accordingly.

Transfer values

10.—(1) Chapter 4 of Part 4 of the 1993 Act (protection for early leavers: transfer values) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme, in—

- (a) section 89(1)(a)(12) (scope of Chapter 4),
- (b) section 93(3)(a) (calculation of cash equivalents), and
- (c) section 94(1A) and (3)(13) (variation and loss of rights under section 90),

a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to the new scheme.

Transfer values regulations

11.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(14) are modified as follows.

(2) In the application of regulation 3 of those Regulations (rules on continuation in employment after termination of pensionable service) to P as a member of the old scheme—

- (a) in paragraph (1), a reference to employment to which a scheme applies is to be taken as a reference to employment to which the new scheme applies;
- (b) in paragraph (1)(a), a reference to P’s pensionable service terminating at P’s request is to be taken as a reference to P’s pensionable service in relation to the new scheme so terminating; and
- (c) in paragraph (1)(b)(i), a reference to P’s pensionable service continuing until the guarantee date is to be taken as a reference to P’s pensionable service in relation to the new scheme so continuing.

(3) In the application of regulation 4 of those Regulations (right to further cash equivalent on termination of employment to which the scheme applies) to P as a member of the old scheme, in paragraphs (1), (2), (3)(a) and (4), a reference to termination of P’s employment is to be taken as a reference to termination of P’s employment to which the new scheme applies.

PART 4

Modification of tax regime

Lifetime allowance charge

12.—(1) This regulation applies to a person (P) who—

(11) Section 83 was amended by section 13(3)(a) of, and paragraphs 1 and 28 of Schedule 4 to, the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)).

(12) Section 89(1)(a) was substituted by Article 148 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(13) Section 94(1A) was inserted by, and section 94(3) amended by, Article 165 of, and paragraph 7 of Schedule 4 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

(14) S.R. 1996 No. 619.

- (a) is a member of an old scheme whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2014 Act (final salary link);
 - (b) is a member of the new scheme by virtue of pensionable service for the new scheme;
 - (c) is being paid a higher or a lower tier ill-health pension under the new scheme; and
 - (d) has an ill-health pension paid from the new scheme reduced as a consequence of P becoming entitled to payment of a scheme pension (within the meaning of paragraph 2 of Schedule 28 to the Finance Act 2004(15) under the old scheme.
- (2) Section 216 of the Finance Act 2004(16) (benefit crystallisation events and amounts crystallised) is modified in its application to P as specified in paragraph (3).
- (3) The payment of any scheme pension from the old scheme to P is treated as if it was not a benefit crystallisation event within the meaning of section 216 of the Finance Act 2004.

Annual allowance charge

- 13.—(1) This regulation applies to a person (P) who—
- (a) is a member of an old scheme whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2014 Act;
 - (b) is a member of the new scheme by virtue of pensionable service for the new scheme; and
 - (c) becomes entitled to payment of a lower tier ill-health pension under the new scheme.
- (2) Section 234 of the Finance Act 2004(17) (defined benefits arrangements) is modified in its application to P as specified in paragraph (3).
- (3) When calculating the closing value of P's rights under the new scheme for the pension input period during which P becomes entitled to payment of the lower tier ill-health pension, the element of the lower tier ill-health pension that represents pensionable service for the old scheme is not to be counted as being part of the closing value.

PART 5

Modification of short service benefit provisions

Short service benefit

- 14.—(1) This regulation applies to a person (P)—
- (a) who is a deferred member of the new scheme;
 - (b) who is entitled to benefits under the new scheme; and
 - (c) whose—
 - (i) entitlement to benefits under the new scheme is determined by, or
 - (ii) benefits under the new scheme are computed by reference to,
 P's deferred pension age rather than P's normal pension age.
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- (15) 2004 c.12. Paragraph 2 was amended by sections 101 and 104 of, and Schedules 10 and 11 to, the Finance Act 2005 (c.7); by section 161 of, and Schedule 23 to, the Finance Act 2006 (c.25); by section 70 of, and Schedule 20 to, the Finance Act 2007 (c.11); by section 51 of the Finance Act 2013 (c.29); and by S.I. 2007/493.
- (16) Section 216 was amended by section 101 of, and paragraphs 1 and 31 of Schedule 10 to, the Finance Act 2005 (c.7); section 161 of, and paragraphs 1 and 30 of Schedule 23 to, the Finance Act 2006 (c.25); by section 92 of, and paragraphs 4 and 5 of Schedule 29 to, the Finance Act 2008 (c.9); and by section 65 of, and paragraphs 62 and 73 of Schedule 16 to, the Finance Act 2011 (c.11).
- (17) Section 234 was amended by section 66 of, and paragraphs 1, 10 and 27 of Schedule 17 to, the Finance Act 2011 (c.11).

(2) For the purposes of the requirements in sections 67, 68, 70 and 71 of the 1993 Act⁽¹⁸⁾ and in any subordinate legislation made under Chapter 1 of Part 4 of that Act, as they apply in relation to P, any difference—

- (a) between P's entitlement to benefits under the new scheme and any active member's entitlement to benefits under the new scheme, or
- (b) between the computation of P's benefits under the new scheme and any computation of benefits of an active member under the new scheme,

is ignored.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on

Name
A senior officer of the
Department of Health, Social Services and
Public Safety

The Department of Finance and Personnel consents to the foregoing Regulations.
Sealed with the Official Seal of the Department of Finance and Personnel on

Name
A senior officer of the
Department of Finance and Personnel

⁽¹⁸⁾ 1993 c.49. Section 67 was amended by Article 240(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)) and section 27 of, and paragraphs 19 and 20 of Schedule 8 to, the Public Service Pensions Act (Northern Ireland) 2014 (c.2. N.I.). Section 68 was amended by Article 240(2) of the Pensions (Northern Ireland) Order 2005.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential provision in relation to public service pensions for firefighters.

Under the Public Service Pensions Act (Northern Ireland) 2014 (c.2 (N.I)) (“the 2014 Act”), certain current members of public service pension schemes are to join new pension schemes (“new schemes”) as active members, whilst retaining certain benefits in their existing pension schemes (“old schemes”).

Part 2 of these Regulations modifies the effect of provisions relating to contracting-out of the additional state pension under the Pension Schemes (Northern Ireland) Act 1993 (c.49) (“the 1993 Act”) for members joining or transferring to a new scheme during the period from 1st April 2015 to 5th April 2016 inclusive. Certain procedural requirements in the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 493) are disapplied to an election to contract-out the new scheme.

Part 3 modifies the effect of other provisions of the 1993 Act, in their application to certain persons who join the new scheme whilst remaining non-accruing members of the old scheme. Those members are to be treated as if they are in ongoing pensionable service under one scheme, not two. Section 11A of the 1993 Act is modified in relation to pension debits. Part 4 of the 1993 Act concerns members of occupational pension schemes who leave before retirement age. The non-accruing members of the old scheme are to be treated as if their old scheme service does not terminate, nor their contracted-out employment cease, when they join the new scheme; only when they leave the new scheme. The modifications apply for the purposes of preserved benefit (Chapter 1 of Part 4); revaluing benefits (Chapter 2); protecting increases in guaranteed minimum pensions (Chapter 3); and cash equivalent values (Chapter 4). Specified provisions in the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 619), which were made under Chapter 4 of Part 4 of the 1993 Act, are also modified.

Part 4 modifies the effect of the pensions tax regime contained in the Finance Act 2004 (c.12) upon the ill-health pension provision in the new scheme. It provides that any element of an ill-health pension relating to pensionable service for the old scheme will not fall to be calculated against the member’s annual tax allowance, and that any pension in the old scheme that subsequently falls to be paid to a member who has taken ill-health retirement will not fall to be calculated against the member’s lifetime tax allowance.

Part 5 resolves a tension between the short service benefit provisions contained in the 1993 Act and the requirement of section 10 of the 2014 Act that a deferred member of the new scheme has a different pension age (set at state pension age) than an active member.

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