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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2015 No.**

**The Judicial Pensions Regulations (Northern Ireland) 2015**

**PART 12**

**Supplementary**

**CHAPTER 2**

**Payment of benefits: general**

**Late payment of retirement index adjustment**

**148.** Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment to be paid before the end of the last active scheme year.

**Commutation of small pensions**

**149.**—(1) This regulation applies if—

- (a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member's beneficiary does not exceed the small pensions commutation maximum; or
- (b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member's beneficiary does not exceed the small pensions commutation maximum.

(2) Unless the member has reached state pension age, this regulation does not apply if—

- (a) the pension entitlement of the member or the member's beneficiary under paragraph (1) (a) is equal to or exceeds the member's guaranteed minimum; or
- (b) the total pension entitlement of the member or the member's beneficiary under paragraph (1)(b) is equal to or exceeds the member's guaranteed minimum.

(3) The scheme manager may pay the member or the member's beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—

- (a) the member or the member's beneficiary consents to receipt of a lump sum in place of the pension; and
- (b) the requirements of the commutation provisions that apply in the circumstances are met.

(4) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

(5) In this regulation—

“the commutation provisions” means the provisions permitting the commutation of pensions set out in—

- (a) regulation 2 (commutation of a pension under an occupational pension scheme) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997(1);
- (b) paragraph 7 of Schedule 29 (registered pension schemes: authorised lump sums - supplementary) to the 2004 Act (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)(2) and, in relation to a pension payable under Part 8, paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(3); and
- (c) regulation 3 (commutation of the whole of pension credit benefit) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(4);

“single capacity member” means a member of this scheme who is not a dual capacity member; and

“the small pensions commutation maximum” means the amount that is permitted to be commuted having regard to the commutation provisions that apply in the circumstances.

### **Guaranteed minimum pensions**

**150.**—(1) If a member has a guaranteed minimum under section 10 (earner’s guaranteed minimum) of the 1993 Act(5) in relation to benefits under this scheme—

- (a) nothing in these Regulations permits or requires anything that would cause requirements under that Act in relation to such a member and their rights under this scheme not to be met in the case of the member;
- (b) nothing in these Regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of the member; and
- (c) the following provisions are without prejudice to the generality of this paragraph.

(2) If apart from this regulation—

- (a) no pension would be payable to the member under this scheme; or
- (b) the weekly rate of the pensions payable would be less than the guaranteed minimum,

a pension at a weekly rate equal to the guaranteed minimum is payable to the member for life from the date on which the member reaches state pension age or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(3) Subject to paragraph (4), if—

- (a) on reaching state pension age the member is still in service (whether or not it is in a qualifying judicial office); and
- (b) where the member is not in a qualifying judicial office, the member consents to a postponement of the member’s entitlement under paragraph (2),

paragraph (2) does not apply until the member ceases work.

(4) If the member continues in service for a further 5 years after reaching state pension age and remains in service, the member is entitled from the end of that period to so much of the member’s

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(1) *S.R. 1997 No. 153*. Regulation 2 was amended by *S.R. 2005 No. 171*, *S.R. 2006 No. 141*, *S.I. 2006/744* and *S.R. 2009 No. 365*.

(2) Paragraph 7 was amended by Finance Act 2011 (c. 11) Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and *S.I. 2006/572*.

(3) Paragraph 20 was amended by Finance Act 2011 (c. 11) Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.

(4) *S.R. 2000 No. 146*. Regulation 3 was substituted by *S.R. 2009 No. 365*.

(5) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (*S.I. 1995/3213 (N.I. 22)*) Articles 147, 168, Schedule 3 paragraph 20, Schedule 5, Part 3, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (*S.I. 1999/671*) Article 3, Schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 (c. 29) Schedule 12 paragraphs 1 and 22.

pension under Parts 6 and 7 as equals the member's guaranteed minimum (or, as the case may be, to so much of the member's pensions under Parts 6 and 7 as together have a weekly rate equal to the member's guaranteed minimum), unless the member consents to a further postponement of the entitlement.

(5) In the circumstances provided for in paragraph (3) or (4), the amount of the guaranteed minimum to which the member is entitled under this regulation is increased in accordance with section 11 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) of the 1993 Act.

(6) If—

- (a) before reaching state pension age the member becomes entitled to the immediate payment of a pension under this scheme; and
- (b) the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer value payment from another pension scheme in respect of which the member had such a guaranteed minimum,

the weekly rate of the pension, so far as attributable to that service, must not be less than the guaranteed minimum, multiplied by such factor as is indicated in actuarial tables for a person of the member's age and sex at the date on which the pension becomes payable.

(7) This paragraph applies if a person has ceased to be in service that is contracted-out, within the meaning of Part 3 of the 1993 Act (certification of pension schemes and effects on members' state scheme rights and duties), by reference to this scheme, and either—

- (a) a transfer value payment in respect of all the person's rights to benefits under this scheme, except the person's rights in respect of the person's guaranteed minimum or rights under section 5(2B) (requirements for certification of schemes: general) of the 1993 Act<sup>(6)</sup> ("the person's contracting-out rights") has been made; or
- (b) the person has no rights to benefits under this scheme apart from the person's contracting-out rights.

(8) If paragraph (7) applies—

- (a) from the date on which the person reaches state pension age the person is entitled to a pension payable for life at a weekly rate equal to the person's guaranteed minimum, if any; and
- (b) from the date on which the person reaches normal pension age under this scheme the person is entitled to a lump sum and pension in respect of the person's rights under section 5(2B) (requirements for certification of schemes: general) of the 1993 Act,

but a person falling within paragraph (7) is not to be regarded as a pensioner for the purposes of Part 8 (death benefits).

(9) Paragraphs (2) to (8) do not apply to—

- (a) a pension that is forfeited—
  - (i) as a result of a conviction for treason; or
  - (ii) under regulation 151, in a case where the relevant offence within the meaning of regulation 151 is an offence under the Official Secrets Acts 1911 to 1989<sup>(7)</sup>;
- (b) a pension that is commuted under regulation 77 or 90; or

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(6) Section 5(2B) was inserted by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22) Article 133(3) and amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Schedule 1 paragraph 38.

(7) 1989 c. 6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

(c) a pension that is commuted under regulation 149 where the conditions in regulation 60 (payment of a guaranteed minimum pension as a lump sum) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(8)</sup> are met,

(10) In this regulation, references to the amount of a pension are to its amount after the subtraction of the commutation amount, if any, (but before the subtraction of the allocation amount, if any (see regulation 78(5)).

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<sup>(8)</sup> S.R. 1996 No. 493. Regulation 60 was substituted by S.I. 2006/744 and amended by S.R. 2006 No. 223, S.R. 2009 No. 365 and S.R. 2010 No. 108.