
DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No.

The Judicial Pensions Regulations (Northern Ireland) 2015

PART 6

Retirement benefits

CHAPTER 1

General

Application of Part

54. This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

Qualifying service

55.—(1) In these Regulations, “qualifying service” means the total of—

- (a) any continuous period of pensionable service under this scheme;
- (b) if a transfer value payment has been received by this scheme in respect of a member’s accrued rights under another occupational pension scheme, the member’s pensionable service under that scheme; and
- (c) for a transition member with continuity of service, the member’s pensionable service under an existing scheme before the transition date for that member.

(2) None of the following counts as qualifying service—

- (a) any pensionable service under this scheme in respect of which a person’s rights under this scheme are extinguished;
- (b) any pensionable service under an existing scheme in respect of which a person’s rights under that scheme are extinguished;
- (c) any unauthorised absence from qualifying judicial office.

CHAPTER 2

Full retirement benefits

Entitlement to full retirement pension

56.—(1) A member of this scheme (P) is entitled to the immediate payment for life of a full retirement earned pension if—

- (a) P has reached normal minimum pension age;
- (b) P has ceased to be in pensionable service under this scheme; and
- (c) P has claimed payment of a full retirement pension.

(2) But if P has not reached normal pension age under this scheme, P is not so entitled unless—

- (a) P has at least 2 years' qualifying service; or
 - (b) a transfer value payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.
- (3) On becoming entitled to the immediate payment for life of a full retirement earned pension, P is entitled to the immediate payment for life of a full retirement added pension of any description as follows—
- (a) for an active member who becomes a pensioner member, if the full retirement account so specifies, an amount of full retirement added pension of that description;
 - (b) for a deferred member who becomes a pensioner member, if the deferred member's account so specifies, a provisional amount of the relevant deferred added pension.
- (4) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in a form required by the scheme manager.
- (5) A claim for a full retirement pension to be paid before P reaches normal pension age under this scheme must state if any of the following applies—
- (a) P has opted to buy out the early payment reduction;
 - (b) P has exercised an effective pension age option.
- (6) In this regulation, "relevant deferred added pension" means—
- (a) for a full retirement added (self only) pension, a deferred added (self only) pension;
 - (b) for a full retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

Annual rate of full retirement pension (active members)

57.—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of a full retirement pension payable to the member is calculated by—

- (a) taking the amount of that description of full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

Annual rate of full retirement pension (deferred members)

58.—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member's account;

- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
 - (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
 - (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
 - (e) subtracting the total allocation amount (if any) specified in that account in relation to that amount.
- (3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.
- (4) In this regulation, “the relevant description of deferred pension” means—
- (a) for a full retirement standard earned pension, deferred standard earned pension;
 - (b) for a full retirement earned pension attributable to an effective pension age option, deferred earned pension attributable to that option;
 - (c) for a full retirement added (self only) pension, deferred added (self only) pension; and
 - (d) for a full retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

Full retirement pension ceases to be payable

59.—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

- (2) If paragraph (1) applies in relation to a member—
- (a) the scheme manager must—
 - (i) cease to pay the pension; and
 - (ii) recover any payment of pension or lump sum made;
 - (b) close the full retirement account in accordance with regulation 49; and
 - (c) the active member’s account must be re-established under Part 5 and treated as if it had never been closed.

CHAPTER 3

Partial retirement benefits

Exercise of partial retirement option

- 60.**—(1) This regulation applies if—
- (a) a person (P) is an active member of this scheme in relation to a continuous period of pensionable service;
 - (b) P has reached normal minimum pension age;
 - (c) the terms of P’s appointment have changed and as a result of that change the annual rate of P’s pensionable earnings is reduced to 80% of their amount before the change or less; and
 - (d) P would be entitled to the immediate payment of a full retirement pension in relation to that period of service if P left pensionable service and claimed payment of the pension.

(2) P may opt to continue in pensionable service but claim payment of the whole or part only of P's accrued pensions for the continuous period of pensionable service before P's pensionable earnings were reduced ("partial retirement option").

(3) P may not exercise a partial retirement option more than once in relation to a description of accrued pension.

Partial retirement option notice

61.—(1) A partial retirement option may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager ("option notice"); and
- (b) in the 3 months after P's pensionable earnings are reduced, on a date agreed by the member and the scheme manager.

(2) An option notice must specify—

- (a) whether P claims payment of—
 - (i) the whole of P's accrued pensions; or
 - (ii) part only of P's accrued pensions; and
- (b) if P claims payment of part only—
 - (i) the descriptions of accrued pension for which payment is claimed; and
 - (ii) the proportion of each description of accrued pension for which payment is claimed ("option proportion"), which must comply with regulation 62.

Option proportion

62.—(1) A partial retirement option which relates to a description of accrued added pension must relate to all of the descriptions of P's accrued added pension.

(2) If P claims payment of accrued standard earned pension, P must also claim payment of any of P's accrued added pension.

(3) If P claims payment of P's accrued added pension, P must also claim payment of any accrued standard earned pension.

(4) If P claims payment of part only of P's accrued pensions, the following are the option proportions of each description of accrued pension which can be claimed—

- (a) 100% of each of the descriptions of P's accrued pension for which payment is claimed;
- (b) an option proportion lower than 100% for one description of accrued pension claimed and 100% for each of the other descriptions of P's accrued pension claimed.

(5) For the purposes of (4)(b), any accrued standard earned pension and accrued added pension claimed is treated together as if it were one description of accrued pension.

Entitlement to partial retirement pension or full retirement pension

63. An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of—

- (a) if P claims payment of part only of P's accrued pensions, a partial retirement pension calculated in accordance with regulation 51; or
- (b) if P claims payment of the whole of P's accrued pensions, a full retirement pension calculated in accordance with regulation 48.

Annual rate of partial retirement pension

64.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of part only of P’s accrued pensions.

(2) The annual rate of each description of partial retirement pension is calculated under regulation 57 by reference to the amount of each description of full retirement pension specified in the full retirement account.

(3) Regulation 57 applies as if—

- (a) the reference to a full retirement pension were a reference to a partial retirement pension; and
- (b) the reference to the full retirement account were a reference to the partial retirement account.

Annual rate of full retirement pension

65.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of the whole of P’s accrued pensions.

(2) The annual rate of each description of full retirement pension is calculated under regulation 57 by reference to the amount of that description of full retirement pension specified in the full retirement account.

(3) Regulation 57 applies as if the last day of pensionable service were the day before the day on which the member exercised the partial retirement option.

CHAPTER 4

Ill-health benefits

Meaning of “permanent breakdown in health”

66. For the purposes of this Chapter, a member’s breakdown in health is “permanent” if it is likely to continue until the member reaches prospective normal pension age.

Meaning of “incapacity for employment”

67. For the purposes of this Chapter, a member’s permanent breakdown in health involves “incapacity for employment” if, as a result of the breakdown, the member is incapable of discharging the duties of their qualifying judicial office.

Entitlement to ill-health pension

68.—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to immediate payment of an ill-health pension under this scheme, in accordance with the provisions of this Chapter, if the following conditions are met—

- (a) a member has claimed payment of an ill-health pension;
- (b) a medical certificate states that the member has suffered a permanent breakdown in health involving incapacity for employment; and
- (c) either—
 - (i) the member has at least 2 years qualifying service, or
 - (ii) where the member has less than 2 years qualifying service, the scheme manager determines that the member is entitled to an ill-health pension.

(2) A member who is entitled to immediate payment of an ill-health pension is entitled to a full retirement added pension of any description if the full retirement account specifies an amount of full retirement added pension of that description.

(3) The annual rate of an ill-health pension and any added pension payable under this regulation is calculated in accordance with regulation 69.

Annual rate of ill-health pension

69.—(1) The annual rate of an ill-health pension is the sum of—

- (a) the annual rate of full retirement earned pension, calculated in the same way as for an active member under regulation 57, but without subtracting the early payment reduction; and
- (b) an ill-health enhancement.

(2) The annual rate of a full retirement added pension of any description payable with an ill-health pension is calculated in the same way as for an active member under regulation 57, but without subtracting the early payment reduction.

(3) In this regulation—

“an ill-health enhancement” means half the annual rate of a full retirement earned pension calculated in respect of a member’s assumed period of pensionable service and based on the member’s pensionable earnings as at the date their pensionable service ceases;

“the member’s assumed period of pensionable service” means the period (expressed in years)

—

- (a) beginning with the day after the member’s continuous period of pensionable service ceased; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day with which that term ends; or
 - (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age).

Deferment of accrued earned pension attributable to a transfer value payment

70.—(1) This regulation applies in relation to a member of this scheme—

- (a) who is entitled to payment of an ill-health pension; and
- (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued earned pension attributable in whole or in part to a transfer value payment received by this scheme in relation to the member in the 24 months before that last day.

(2) If the scheme manager so directs, the member becomes a deferred member of this scheme in respect of that amount of accrued earned pension and accordingly—

- (a) a deferred member’s account must be established under Part 5;
- (b) that amount of accrued earned pension must be specified in the deferred member’s account as the provisional amount of deferred earned pension; and
- (c) that amount of accrued earned pension is not included in the calculation of the annual rate of full retirement earned pension.

Deferment of added pension attributable to recent payments

71.—(1) This regulation applies in relation to a member of this scheme—

- (a) who is entitled to payment of an ill-health pension; and
 - (b) whose active member's account as at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 1 within the 12 months before the relevant day.
- (2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—
- (a) a deferred member's account must be established under Part 5;
 - (b) that amount of accrued added pension must be specified in the deferred member's account as the provisional amount of the relevant description of deferred added pension; and
 - (c) that amount of accrued added pension is not included in the calculation of the annual rate of full retirement added pension payable with the ill-health pension.
- (3) In paragraph (1), “the relevant day” means—
- (a) the day on which a medical certificate is produced in accordance with regulation 68(1) by virtue of which the member is entitled to payment of the ill-health pension; or
 - (b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.

CHAPTER 5

Payment options

Options under this Chapter

72. The options under this Chapter are—
- (a) the option under regulation 74 to buy out the early payment reduction;
 - (b) the option under regulation 75 to defer payment of a full retirement added pension;
 - (c) the option under regulation 76 to exchange part of a retirement pension for a lump sum;
 - (d) the option under regulation 77 to exchange the whole of the member's accrued pensions for a lump sum in cases of serious ill-health.

Exercising an option under this Chapter

73.—(1) A member may exercise an option under this Chapter by notice to the scheme manager in a form required by the scheme manager.

(2) In this Chapter, “option notice” means a notice by which a member exercises an option under this Chapter.

Option to buy out early payment reduction

- 74.—(1) This regulation applies if—
- (a) a member of this scheme becomes entitled under Chapter 2 or 3 to the immediate payment of a full retirement pension or a partial retirement pension; and
 - (b) the member has not reached—
 - (i) normal pension age under this scheme; or
 - (ii) if applicable, the member's effective pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of retirement pension.

- (3) The cost must be met by way of a special payment to this scheme made by—
- (a) the member;
 - (b) the member's employer; or
 - (c) both the member and the employer.
- (4) Any special payment by the employer must be made with the consent of the scheme manager.
- (5) The cost of buying out the early payment reduction is an amount determined by the scheme manager after consulting the scheme actuary.

Option to defer payment of added pension

- 75.**—(1) This regulation applies if a member of this scheme—
- (a) becomes entitled to the immediate payment of a full retirement added pension of any description; and
 - (b) has not reached normal pension age under this scheme.
- (2) The member may opt under this regulation to defer payment of the full retirement added pension of that description.
- (3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the full retirement added pension of that description and accordingly—
- (a) a deferred member's account must be established under Part 5; and
 - (b) the amount of full retirement added pension of that description must be specified in the deferred member's account as the provisional amount of deferred added pension of that description.
- (4) The member is entitled to payment of the full retirement added pension of that description when the member gives notice to the scheme manager, in a form required by the scheme manager, that the member wishes to take that full retirement added pension.
- (5) The annual rate of full retirement added pension is calculated in accordance with regulation 58.

Option to commute part of pension

- 76.**—(1) A member who becomes entitled to the immediate payment of a retirement pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.
- (2) An option under this regulation may only be exercised before the first payment of the pension is made.
- (3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.
- (4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 241 of that Act⁽¹⁾).
- (5) If paragraph (6) applies, the member may opt to exchange only so much of the pension (after subtracting the allocation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(1) Section 241 was amended by the Finance Act 2006 (c. 25) Schedule 21 paragraphs 2 and 9, the Finance Act 2007 (c. 11) Schedule 19 paragraphs 1 and 15 and the Finance Act 2011 (c. 11) Schedule 16 paragraphs 62 and 74.

(6) This paragraph applies if the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act⁽²⁾ 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.

Option to commute whole of member's accrued pensions (serious ill-health)

77.—(1) This regulation applies where there is a medical certificate stating that an active member or deferred member of this scheme has a life-expectancy of less than 12 months.

(2) The member may opt under this regulation to exchange the whole of the member's accrued pensions for a lump sum.

(3) An option under this regulation may only be exercised before the first payment of the pension is made.

(4) The lump sum payable to the member is an amount equal to—

$$(A+B+C)\times 5$$

where—

A means the total annual amount of full retirement pension;

B means the total annual amount of partial retirement pension; and

C means the total annual amount of ill-health pension.

(5) For the purpose of paragraph (4), "total annual amount" means—

(a) in relation to a full retirement pension or partial retirement pension to which the member would be entitled apart from this option, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date the option is exercised, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date; and

(b) in relation to an ill-health pension, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date when payment would first be due, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

(6) The lump sum must be paid to the member as soon as is reasonably practicable after the option is exercised.

CHAPTER 6

Allocation of part of pension

Allocation election

78.—(1) This regulation applies in relation to a full retirement earned pension or a partial retirement earned pension payable in respect of a member's pensionable service under this scheme.

(2) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Articles 147, 168, Schedule 5 Part 3, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 3(1) and Schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 (c. 29) Schedule 11 paragraph 23.

(2) The member may elect to allocate part of the retirement pension to a beneficiary (“allocation election”).

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

- (a) the member’s spouse or civil partner;
- (b) financially wholly or mainly dependent on the member; or
- (c) financially interdependent with the member.

(4) If the member wishes to allocate pension to more than one beneficiary, the member must make a separate allocation election in respect of each beneficiary.

(5) If paragraph (6) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 1 (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.

Restriction on total amount of pension that may be allocated

79.—(1) The sum of the following must not exceed the annual rate of retirement pension that would be payable to the member (P)—

- (a) the total amount of retirement pension allocated under this Part (“total allocation amount”); and
- (b) the annual rate of surviving adult’s pension that would be payable on P’s death.

(2) In determining whether the restriction in paragraph (1) is met, it is assumed that—

- (a) P will have become a pensioner member before P’s death;
- (b) P will exercise the commutation option so as to exchange for a lump sum the maximum amount possible of the whole of P’s accrued pensions;
- (c) P’s spouse or civil partner status will not change before P dies;
- (d) all of P’s beneficiaries will survive P; and
- (e) any beneficiary who would have been P’s dependant for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions - supplementary) to the 2004 Act(3) will be such a dependant when P dies.

(3) If at the time an allocation election is made it would result in the restriction in paragraph (1) not being met, the scheme manager may treat the election (or each of the elections) as allocating a smaller amount that would result in the restriction being met.

Making an allocation election

80.—(1) If requested by a member (P), the scheme manager must advise P of the last day on which P may make an allocation election.

(2) An allocation election may only be made—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the election closing date.

(3) Paragraph 15(3) of Schedule 28 was amended by [S.I. 2005/3229](#).

- (3) An allocation election must—
 - (a) specify the amount of retirement pension to be allocated;
 - (b) name the beneficiary;
 - (c) be accompanied by a declaration in a form required by the scheme manager stating that—
 - (i) P is in good health; and
 - (ii) the beneficiary is a person who meets the conditions set out in regulation 78(3); and
 - (d) be accompanied by a medical certificate giving the opinion that P is in good health.
- (4) Before the election closing date, the member may, by notice to the scheme manager in a form required by the scheme manager—
 - (a) revoke the election; or
 - (b) amend the election by altering the amount of retirement pension to be allocated.
- (5) The election takes effect on the election closing date, unless it has no effect under paragraph (6) or (7) .
- (6) An allocation election has no effect unless the scheme manager is satisfied that when P made the election the matters stated in the declaration were true.
- (7) An allocation election has no effect if P or the beneficiary dies before the election closing date.
- (8) In this regulation, “election closing date” means the earlier of—
 - (a) the date advised by the scheme manager under paragraph (1); or
 - (b) the day before the pension becomes payable.

Effect of allocation election

- 81.**—(1) If an allocation election takes effect—
 - (a) the member’s pension is reduced accordingly (and this reduction applies even if the beneficiary predeceases the member); and
 - (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life (“allocated pension”) of an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to—
 - (i) the amount of retirement pension allocated under the election, and
 - (ii) the beneficiary’s age and gender.
- (2) The scheme manager may withhold payment from the beneficiary if—
 - (a) the member dies before the end of the period of 2 years beginning with the date on which the election takes effect; and
 - (b) the scheme manager is satisfied that the member made a false declaration about the member’s state of health when making the election.
- (3) An allocation election in relation to a retirement pension has no effect if it would result in an allocated pension being paid—
 - (a) on the member becoming entitled to the retirement pension, to a person who is not—
 - (i) the member’s spouse or civil partner;
 - (ii) financially wholly or mainly dependent on the member; or
 - (iii) financially interdependent with the member;
 - (b) on the death of the member, to a person who is not—
 - (i) the member’s surviving adult; or

- (ii) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions - supplementary) to the 2004 Act.

Adjustment of allocated benefit (members who have reached the age of 75)

82.—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—

- (a) the member who made the allocation election dies after reaching the age of 75; and
 - (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants’ scheme pension under section 167 (pension benefit rules) of the 2004 Act⁽⁴⁾.
- (2) In this regulation, “allocated pension” has the meaning given in regulation 81(1)(b).

(4) Section 167 was amended by the Finance Act 2007 (c. 11) Schedule 20 paragraph 22 and the Finance Act 2011 (c. 11) Schedule 16 paragraph 11. See also Part 2 of Schedule 28 to that Act for the meaning of expressions used in section 167.