
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 279

LOCAL GOVERNMENT

**The Local Government (Discretionary
Payments) Regulations (Northern Ireland) 2001**

Made - - - - 17th July 2001

Coming into operation 28th August 2001

The Department of the Environment, in exercise of the powers conferred on it by Articles 9 and 19 of the Superannuation (Northern Ireland) Order 1972⁽¹⁾, and now vested in it⁽²⁾ and of every other power enabling it in that behalf and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to it to be appropriate, hereby makes the following Regulations:—

Part I

General

Citation, commencement and retrospectio

1.—(1) These Regulations may be cited as the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 and shall come into operation on 28th August 2001 and except as provided in paragraphs (2) and (3) shall have effect from that date.

(2) Regulations 19(1) and (2), and 20 to 24, shall have effect as from 6th April 1988.

(3) Regulation 31 shall have effect as from 28th December 1994.

General interpretation

2.—(1) In these Regulations—

“the 1972 Order” means the Superannuation (Northern Ireland) Order 1972;

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996⁽³⁾;

(1) S.I. 1972/1073 (N.I. 10)

(2) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(3) S.I. 1996/1919 (N.I. 16)

“assumed member” has the meaning given in regulation 5(2);

“the Committee” means the Northern Ireland Local Government Officers' Superannuation Committee established by the Local Government (Superannuation) Act (Northern Ireland) 1950(4);

“the Department” means the Department of the Environment;

“employing authority” for the purposes of Parts II and III of these Regulations, means a body listed in Part I of Schedule 1;

“employment” includes office and service;

“the LGPS Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(5);

“the 1992 Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1992(6);

“LGPS employer” for the purposes of Parts III and IV of these Regulations, means a body listed in Part I of Schedule 1, and for the purposes of Part V, a body listed in Part II of Schedule 1, and including in either case the employing body of any person who is an admission agreement employee (as defined in the LGPS Regulations);

“LGPS member” means a member of the Scheme;

“the Scheme” has the meaning given in the LGPS Regulations.

(2) Any expressions which are used in these Regulations and are not given a specific meaning for the purposes of these Regulations shall be construed as if they were contained in the LGPS Regulations.

(3) Where in these Regulations references are made to anything done under, required under or arising under any provision of the LGPS Regulations, those references shall be construed (so far as the context permits) as references to anything done under, required under or arising under the corresponding provision of the Local Government (Superannuation) Regulations (Northern Ireland) 1981(7) or, as the case may be, the 1992 Regulations; and where any references are made to a member or a person who would be or would have been a member, those references shall be construed so far as the context permits as references to a pensionable employee or, as the case may be, to a person who would be or would have been a pensionable employee, within the meaning of the Local Government (Superannuation) Regulations (Northern Ireland) 1981 or, as the case may be, the 1992 Regulations.

(4) So far as is necessary for the purposes of regulation 1(2) and (3) the regulations shall be deemed to have effect from and including 6th April 1988.

Part II

Increase of 1996 Order Redundancy Payments

Power to increase 1996 Order redundancy payments above 1996 Order weekly pay limit

3.—(1) Where a LGPS member or an assumed member—

(a) ceases to hold his employment with an employing authority; and

(4) 1950 c. 10 (N.I.)

(5) S.R. 2000 No. 177

(6) S.R. 1992 No. 547; amended by other statutory rules listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177) which revoke all the 1992 Regulations except for Part L and Schedule 19

(7) S.R. 1981 No. 96; amended by other instruments listed in Schedule 21 to the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 547)

(b) is entitled to a redundancy payment under the 1996 Order, the authority may pay him compensation under this regulation.

- (2) The compensation payable under this regulation shall not exceed the difference between—
- (a) the redundancy payment to which he is entitled under Part XII of the 1996 Order (redundancy payments); and
 - (b) the redundancy payment to which he would have been so entitled if Article 23(1)(c) of that Order (limit on weekly pay for purposes of calculating redundancy payments) were omitted.

Part III

Compensation for Premature Retirement

Interpretation

Interpretation of Part III

4.—(1) In this Part—

“the 1965 Regulations” means the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965⁽⁸⁾;

“the 1983 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983⁽⁹⁾;

“annual compensation” shall be construed in accordance with regulation 9;

“credited period”, in relation to a person, means a period with which he is credited under regulation 7;

“eligible person” means a person who satisfies the conditions mentioned in regulation 5(1);

“excepted payment”, in relation to an employment of a person, means a payment received by him which is—

- (a) a redundancy payment to which he is entitled under Part XII of the 1996 Order (redundancy payments), or compensation paid to him under Part II of these regulations in respect of the cessation of his former employment (including in either case any amount by which that payment is reduced in accordance with the 1965 Regulations); or
- (b) a payment in respect of that employment made under regulations, or under provisions having effect as provisions of regulations, made under section 9 of the 1972 Order; or
- (c) a payment in lieu of annual or other leave to which he was entitled in that employment; or
- (d) so much of any payment in lieu of notice of termination of that employment, as does not exceed the remuneration he would have received if he had remained in that employment for a period of three months after the material date;

“former employment”, in relation to a person, means the employment which ceased as described in regulation 5(1)(a);

“lump sum compensation” means such compensation as is mentioned in regulation 8;

“material date”, in relation to a person, means the date upon which he ceased to hold his former employment;

⁽⁸⁾ S.R. & O. (N.I.) 1965 No. 246

⁽⁹⁾ S.R. 1983 No. 30 amended by S.R. 1986 No. 80, S.R. 1991 No. 19, S.R. 1998 No. 41 and S.R. 1998 No. 286

“new employment” shall be construed in accordance with regulation 14(4);

“occupational pension”, in relation to a person, means a pension (other than a lump sum) to which he has become entitled (whether or not payable immediately) being—

- (a) a pension associated with any employment which is payable under an enactment (other than the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁰⁾ or the LGPS Regulations), contract, scheme or other arrangement, including a pension under a personal pension scheme in relation to which the Department for Social Development⁽¹¹⁾ has paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986⁽¹²⁾ or section 39 of the Pension Schemes (Northern Ireland) Act 1993⁽¹³⁾; or
- (b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the LGPS Regulations or arising with respect to such a pension as is mentioned in paragraph (a);

“official pension” has the same meaning as in the Pensions (Increase) Act (Northern Ireland) 1971⁽¹⁴⁾;

“pensionable remuneration”, in relation to a person, means the remuneration which is (or, if there has been a relevant disqualification, which, but for that disqualification and on the relevant assumptions, would be) that person’s pensionable remuneration;

“the relevant assumptions” has the meaning given in regulation 6(2);

“relevant disqualification” has the meaning given in regulation 6(1);

“special service” has the meaning given in regulation 6(3) and (4);

“total period of membership” includes any period of special service (other than special service consisting of periods of unpaid leave or other unpaid absence from duty);

- (2) For the purposes of this Part, a person is an “eligible child” of a person if—
 - (a) he is a legitimate child of a marriage of the person which took place on or before the material date and was born before the expiry of the period of one year beginning with that date; or
 - (b) he is a child adopted by the person on or before the material date; or
 - (c) he is a child who was wholly or mainly dependent on the person both on the material date and at the time of the person’s death and is—
 - (i) the person’s step-child or illegitimate child;
 - (ii) an adopted child of someone else who married the person before the material date; or
 - (iii) a child accepted by the person as a member of the family.

(3) For the purposes of these Regulations, a person who in his employment immediately before the material date was subject to regulation B5(1) of the LGPS Regulations (separate employments under one employer) (or, if he is an assumed member would, apart from a relevant disqualification and on the relevant assumptions, be so subject) shall be treated in relation to each of the employments as if the other or others were held by him under another LGPS employer.

(10) 1992 c. 7

(11) See S.R. 1999 No. 283 (N.I. 1) Article 3(1) and S.R. 1999 No. 481, Article 8 and Schedule 6 Part II

(12) S.I. 1986 No. 1888 (N.I. 18); Articles 3-16 were repealed by the Pension Schemes (Northern Ireland) Act 1993 c. 49 Schedule 4 Part 1

(13) 1993 c. 49 section 39 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 147 and Schedule 3 paragraph 34

(14) 1971 c. 35 (N.I.)

Eligibility to benefit under this Part

Persons who are eligible to benefit: LGPS members and non-members with relevant disqualification

- 5.—(1) A LGPS member or an assumed member is eligible to benefit under this Part if—
- (a) he ceases to hold his employment with an employing authority—
 - (i) by reason of redundancy;
 - (ii) in the interests of the efficient exercise of that authority’s functions; or
 - (ii) because he was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment;
 - (b) in a case within sub-paragraph (a)(i) or (ii), that authority—
 - (i) has certified in relation to him in accordance with regulation D6(2)(a) of the LGPS Regulations (redundancy etc.); or
 - (ii) is satisfied that but for a relevant disqualification and on the relevant assumptions it would have so certified;
 - (c) he is not, in respect of the loss of that employment, entitled to have his case considered for the payment of section 137 compensation;
 - (d) on the material date he has attained the age of 50, but not the age of 65;
 - (e) on that date the aggregate of—
 - (i) his total period of membership, and
 - (ii) any periods to which Part II of Schedule B1 to the LGPS Regulations applies, amounts to at least 5 years;
 - (f) on that date his total period of membership does not exceed 40 years; and
 - (g) the period beginning with the day following the material date and ending with his 65th birthday, exceeds any period of residual entitlement which he has to his credit as described in regulation 7(2).
- (2) In paragraph (1) “assumed member” means a person who the employing authority is satisfied would be, or be treated as, a LGPS member but for a relevant disqualification.
- (3) In paragraph (1)(c) “section 137 compensation” means long-term compensation or retirement compensation—
- (a) under regulations made under section 137 of the Local Government Act (Northern Ireland) 1972(15); or
 - (b) under any instrument made under any provision to the like effect in any other enactment.

Application of Part III to assumed members: “relevant disqualification”, “relevant assumptions” and “special service”

- 6.—(1) In this Part, in relation to any person, “relevant disqualification” means an act or omission in consequence of which (either alone or taken together with other such acts or omissions) that person has not become, has ceased to be or has not been treated as being a LGPS member, being one of the following acts or omissions—
- (a) the failure of a medical examination required under regulation B1(6) of the 1992 Regulations;

- (b) the making of an election or the absence of an election with respect to any period under regulation B1(5) of, or Part III of Schedule 2 to, those Regulations;
 - (c) the absence of—
 - (i) an election under regulation B2 of, or paragraph 1(b) of Part II of Schedule 2 to, those Regulations with respect to any period; or
 - (ii) an application under regulation B10 of the LGPS Regulations for membership during any period;
 - (d) the giving of a notification under regulation B3 of the 1992 Regulations or under regulation B12 of the LGPS Regulations;
 - (e) the making of an election or the absence of an election with respect to any period under regulation 15(b) of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989(16).
- (2) In this Part “the relevant assumptions” means the following assumptions—
- (a) that during any period of special service a person was a LGPS member;
 - (b) that a person’s total period of membership included any periods of special service which do not consist of periods of unpaid leave or other unpaid absence from duty;
 - (c) that any election or determination which, on the assumptions mentioned in sub-paragraphs (a) and (b), might have been made with respect to a period of special service under paragraph 2 of Schedule D1 to the LGPS Regulations (optional alternative relevant periods for calculating pensionable remuneration)—
 - (i) in the circumstances mentioned in paragraph 3 of that Schedule, had been made; and
 - (ii) in the circumstances mentioned in paragraph 4 or 5 of that Schedule, had not been made; and
 - (d) that paragraph 6(b) of that Schedule did not apply with respect to a period of special service.
- (3) In this Part “special service” means, subject to paragraph (4), any period of employment with respect to which the employing authority is satisfied—
- (a) that, if it were not for a relevant disqualification, the person concerned would have been or have been treated as being a LGPS member; or
 - (b) that the employment would have fallen within sub-paragraph (a) if it had not been qualifying part-time employment (within the meaning of Part III of Schedule 2 to the 1992 Regulations) in which the person was ineligible to be a LGPS member.
- (4) In relation to any employment ending before a person began his former employment, “special service” only includes such periods as are continuous with the former employment.
- (5) For the purpose of paragraph (4), a period of employment is continuous with the former employment if in the interval between its ending and the former employment beginning there has been no period exceeding one month and one day during which the person was not employed by a LGPS employer.

Discretionary awards of lump sum and annual compensation to former employees

Power to award credited period for compensation purposes

7.—(1) An employing authority may, not later than 6 months after the material date, credit a person who is eligible to benefit under this Part with a period (the “credited period”) not exceeding the shortest of—

- (a) the period by which his total period of membership falls short of 40 years;
- (b) the period beginning with the day following the material date and ending with his 65th birthday, less any period of residual entitlement which he has to his credit;
- (c) the aggregate of his total period of membership and any periods to which Part II of Schedule B1 to the LGPS Regulations applies (or, if he is an assumed member, would apply apart from a relevant disqualification and on the relevant assumptions); or
- (d) 10 years;

but no person may be credited with a period of service under this regulation in respect of a former employment in respect of the cessation of which a determination to pay compensation is made under regulation 31(2).

(2) For the purposes of paragraph (1)(b), where a person has been granted a credited period in respect of a cessation of employment (“the previous cessation”) before the material date, he has to his credit a period of residual entitlement equal to the excess (if any) of the relevant aggregate period over the period which—

- (a) begins with the day immediately following the previous cessation (or, if there has been more than one previous cessation in respect of which pre-material date extra service has been granted to him, the first of them); and
- (b) ends with the day on which he ceased to hold his former employment.

(3) In this regulation, in relation to any person—

- (a) “the relevant aggregate period”, means the aggregate of—
 - (i) his pre-material date extra service, reduced as may be necessary in accordance with paragraph (4);
 - (ii) the period of his former employment; and
 - (iii) the aggregate of any periods during which he was a LGPS member or an assumed member, being periods between the previous cessation (or, if there has been more than one previous cessation in respect of which pre-material date extra service has been granted to him, the first of them) and the commencement of the former employment;
- (b) “pre-material date extra service”, means a period by which his total period of membership has been increased or a period of service with which he has been credited, before the material date, for the purpose of calculating one of the kinds of benefit or compensation mentioned in paragraph (5) (or, if more than one such period has been granted to him, the aggregate of them).

(4) Where after his previous cessation (or the first of them) a person has ceased to hold an employment and—

- (a) his pre-material date extra service has been reduced by the period of that employment or part of that period; or
- (b) the compensation or benefit attributable to such extra service has been reduced on account of that period or part of it,

his pre-material date extra service for the purposes of paragraph (3)(a)(i) shall be reduced by that period.

- (5) The benefits and compensation mentioned in paragraph (3)(b) are—
- (a) retirement compensation under an enactment as defined in section 98(1) of the Northern Ireland Act 1998⁽¹⁷⁾ or under regulations made under section 137 of the Local Government Act (Northern Ireland) 1972, or a similar instrument, on account of loss of employment; or
 - (b) benefit under regulations made under Article 3 of the Superannuation (Northern Ireland) Order 1973⁽¹⁸⁾ or a similar instrument; or
 - (c) compensation under any scheme made under Article 3 of the 1972 Order⁽¹⁹⁾ or a similar instrument, on account of his retirement in the public interest; or
 - (d) compensation under an enactment as defined in section 98(1) of the Northern Ireland Act 1998 or under these regulations or any other regulations made under Article 19 of the 1972 Order, or a similar instrument, on account of his ceasing to hold an employment with an authority by reason of redundancy or in the interests of the efficient exercise of the functions of that authority;

and in this paragraph “similar instrument” means any instrument made under any provision to the like effect in any other enactment.

Lump sum compensation

8.—(1) An eligible person who has been granted a credited period under regulation 7 is entitled to receive compensation in the form of a lump sum in accordance with this regulation.

- (2) If—
- (a) he is entitled, on ceasing to hold his former employment, to a retirement grant by virtue of regulation D6 of the LGPS Regulations in a case where one of the conditions in paragraph (2) of that regulation is satisfied (early retirement on redundancy, or in the interests of efficiency or on the cessation of a joint appointment); or
 - (b) but for a relevant disqualification, he would be so entitled on the relevant assumptions and on the further assumption that, if the employing authority might have certified under regulation D6(2)(a) of those Regulations, it has done so,

he is entitled to receive lump sum compensation of an amount equal to the amount by which that retirement grant would be increased on the relevant assumptions and in accordance with the those Regulations if the total period of his membership were increased by the credited period.

Annual compensation: general provisions

9.—(1) Subject to the following regulations, an eligible person who has been granted a credited period under regulation 7 is entitled to receive annual compensation in accordance with this regulation.

- (2) From the day following the material date he is entitled to receive annual compensation at a rate equal to the rate by which the annual retirement pension to which—
- (a) he is entitled, on ceasing to hold his former employment, by virtue of regulation D6 of the LGPS Regulations in a case where one of the conditions in paragraph (2) of that regulation

(17) 1998 c. 47

(18) S.I. 1973/962 (N.I. 13)

(19) Article 3 of the 1972 Order was amended by Article 10 of the [Local Government \(Miscellaneous Provisions\) Order 1990](#) (S.I. 1990 No. 1509 (N.I. 13)) and by section 184 of and Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (1993 c. 49)

is satisfied (early retirement on redundancy, or in the interests of efficiency or on the cessation of a joint appointment); or

- (b) but for a relevant disqualification, he would be so entitled on the relevant assumptions and on the further assumption that, if the employing authority might have certified under D6(2)(a) of those Regulations, it has done so,

would be increased on the relevant assumptions and in accordance with those Regulations, if the total period of his membership were increased by the credited period.

Adjustments to compensation: other receipts

Limit on annual compensation where entitlement to occupational pension

10.—(1) Where—

- (a) immediately before the material date a person is entitled to an occupational pension in respect of any period (whether or not it is in payment);
- (b) the aggregate of that period, his total period of membership and any credited period exceeds 40 years; and
- (c) at any time when the occupational pension is in payment, the aggregate of the annual rate for the time being—
- (i) of that pension;
 - (ii) of his retirement pension under regulation D6(1) of the LGPS Regulations; and
 - (iii) of the annual compensation payable under regulation 9, would (apart from this paragraph) exceed the relevant amount specified in paragraph (2),

the basic rate of the annual compensation shall be reduced so that the aggregate does not exceed the relevant amount.

(2) The relevant amount mentioned in paragraph (1) is—

- (a) if a retirement grant under Part D of the LGPS Regulations is payable, 50 per cent. of the sum of—
- (i) the amount of the eligible person's pensionable remuneration; and
 - (ii) the amount of the official increases by which an official pension at the annual rate of that pensionable remuneration would have been increased, if it had begun and first qualified for such increases on the day after the material date; and
- (b) if no such retirement grant is payable, 66 $\frac{2}{3}$ per cent. of the sum of those amounts.

(3) For the purposes of paragraph (1)—

- (a) the annual rates at any time of the annual compensation and of any other official pension are their annual rates with official increases;
- (b) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any enactment, contract, scheme or other arrangement.

(4) As respects an occupational pension which is—

- (a) a pension under a personal pension scheme in relation to which the Department for Social Development⁽²⁰⁾ paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986⁽²¹⁾ or section 39 of the Pension Schemes (Northern Ireland) Act 1993⁽²²⁾; or

⁽²⁰⁾ See S.R. 1999 No. 283 (N.I. 1) Article 3(1) and S.R. 1999 No. 481, Article 8 and Schedule 6 Part II

⁽²¹⁾ S.I. 1986/1888 (N.I. 18) Article 3 was repealed by the Pension Schemes (Northern Ireland) Act 1993 c. 49 Schedule 4 Part I

(b) a pension derived from the payment of a transfer value calculated by reference to rights arising with respect to such a pension as is mentioned in sub- paragraph (a),
any reference in paragraph (1) to the period in respect of which a person is entitled to the occupational pension shall be construed as a reference—

- (i) to the period of employment by reference to which the Department for Social Development has paid the contributions; and
- (ii) without prejudice to the generality of that expression in other cases, to any period of employment in relation to which a transfer value has been paid into the personal pension scheme.

(5) In this regulation—

“the basic rate”, in relation to annual compensation, means its basic rate for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971⁽²³⁾;

“official increases” means any increases under that Act.

Redundancy payments

11.—(1) Where—

- (a) the period with which an eligible person is credited under regulation 7 exceeds 6 ²/₃ years; and
- (b) he has received, or is entitled to receive, in respect of the cessation of his former employment—
 - (i) a redundancy payment to which he is entitled under Part XII of the 1996 Order (redundancy payments); or
 - (ii) compensation paid to him under Part II of these Regulations,
 his compensation under this Part shall be abated in accordance with the following provisions.

(2) In the case of lump sum compensation—

- (a) if it exceeds the amount calculated in accordance with paragraph (3), it shall be reduced by that amount; and
- (b) if the amount so calculated equals or exceeds it, it shall not be payable (and any such excess (“the outstanding balance”) shall be deducted from the annual compensation as mentioned in paragraph (4)).

(3) The amount to be calculated in accordance with this paragraph is an amount equal to 30 per cent. of the aggregate amount of the redundancy payments referred to in paragraph (1)(b)(i) and (ii), multiplied by the excess mentioned in paragraph (1)(a) (expressed in years and fractions of a year), less the aggregate amount of any reductions made in those payments in accordance with the 1965 Regulations.

(4) Annual compensation payable under regulation 9 shall be reduced by the appropriate percentage—

- (a) if paragraph (2)(b) applies, of the outstanding balance; or
- (b) if, apart from the provisions of paragraph (2), the person is not entitled to receive lump sum compensation, of the amount calculated in accordance with paragraph (3);

(22) 1993 c. 49 (N.I.) section 39 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Schedule 3 paragraph 34

(23) 1971 c. 35 (N.I.)

and in this paragraph “the appropriate percentage” means the percentage specified in the Table in Schedule 2 in relation to a person of the eligible person’s age and sex.

Other termination payments

12.—(1) Where an eligible person who has been granted a credited period under regulation 7 receives a termination payment to which this regulation applies—

- (a) his lump sum compensation is only payable if, and to the extent that, after abatement under regulation 11, it exceeds the amount of the termination payment;
- (b) if the termination payment exceeds his lump sum compensation after any such abatement, his annual compensation (after any necessary adjustments under regulations 11, 14, 15, 17, and 18) shall be reduced by the amount of the excess;
- (c) if (apart from paragraph (a)) he is not entitled to receive lump sum compensation, his annual compensation (after any such necessary adjustments) shall be reduced by the amount of the termination payment.

(2) Where—

- (a) the whole or part of the termination payment is received by a person after a period is credited to him under regulation 7; and
- (b) his compensation has not been abated on account of that payment in accordance with paragraph (1),

his annual compensation (after any necessary adjustments under regulations 11, 14, 15, 17 and 18) shall be reduced by the amount received in respect of the termination payment.

(3) Where a person’s annual compensation falls to be reduced by an amount under paragraph (1) (b) or (c) or (2), no instalment of annual compensation becomes payable to him until the aggregate of reductions equals that amount.

(4) In this regulation “termination payment” means the aggregate amount of any lump sum payments made to the eligible person by his employing authority in consequence of or as compensation for the loss of his former employment (other than lump sum compensation or any payment which is an excepted payment in relation to that employment), being payments made under an enactment or a contract or arrangement with that authority.

Periodic payments

13.—(1) Where periodic payments are received by a person in respect of any period, annual compensation is only payable to him in respect of that period if, and to the extent that, after any adjustments necessary under regulations 11, 12, 14, 15, 17 and 18 have been made, it exceeds the amount of the aggregate of those periodic payments.

(2) In this regulation, “periodic payment”, in relation to a person, means an instalment of an allowance for life or other period (other than annual compensation under this Part or a payment which is an excepted payment in relation to that employment) granted to him by his employing authority in consequence of or as compensation for the loss of former employment, being an allowance under an enactment or a contract or arrangement with that authority.

Adjustments to compensation: new employment

New employment

14.—(1) Where—

- (a) apart from this regulation and regulation 15, annual compensation is payable to a person; and
- (b) he enters a new employment,

the annual compensation shall be reduced in accordance with regulation 15 for so long as he holds that or any other new employment.

(2) Where two or more awards of annual compensation in respect of an eligible person fall to be reduced in accordance with this regulation, each such award shall be reduced in proportion to its amount.

(3) In this regulation and regulation 15, “annual compensation”, in relation to a person, means the annual compensation which would, apart from this regulation and regulation 15, be payable to him under this Part.

(4) In this Part “new employment”, in relation to a person, means employment with a LGPS employer which he enters after the material date.

(5) If—

- (a) the person’s contractual hours in a new employment are altered; or
- (b) he is transferred to another post under the same employing authority at an altered remuneration,

this regulation applies as if he had again entered a new employment.

Reduction of annual compensation during new employment

15.—(1) If during any period during which a person holds a new employment the aggregate annual rate of—

- (a) annual compensation payable to him;
- (b) remuneration of his new employment; and
- (c) retirement pension payable to him in relation to his former employment,

exceeds the annual rate of remuneration of his former employment, then, subject to paragraph (2), the rate of annual compensation payable to him in respect of that period shall be reduced by the amount of the excess.

(2) If concurrently with his former employment and during the period of 12 months ending with the material date a person who is entitled to annual compensation held any other employment with a LGPS employer (“concurrent employment”), then, if—

- (a) he ceased to hold the concurrent employment before the material date without having become entitled to receive a retirement pension in relation to it and enters new employment within 12 months after ceasing to hold the concurrent employment; or
- (b) he ceases to hold the concurrent employment on or after the material date without having become so entitled and has later entered new employment,

his annual compensation shall only be reduced in relation to his new employment—

- (i) if he spends in the new employment a time materially greater than the time which during the 12 months ending with the day on which he ceased to hold the concurrent employment he spent in that employment; and
- (ii) if, and to the extent that, the aggregate annual rate mentioned in paragraph (1) exceeds the aggregate of—
 - (I) the annual rate of remuneration of his former employment; and
 - (II) the annual rate of remuneration of the concurrent employment during that year.

(3) In this regulation “retirement pension” means—

- (a) a pension under regulation D5, D6, D7 or D9 of the LGPS Regulations (including an annual pension within the meaning of paragraph 1(2) of Schedule D5 to those Regulations); or
 - (b) an occupational pension.
- (4) In this regulation “annual compensation”, in relation to a person, means—
- (a) in paragraph 1(a), the annual compensation payable to him under regulation 9; and
 - (b) elsewhere, the annual compensation which would, apart from regulation 14 and this regulation, be payable to him under these Regulations.
- (5) For the purposes of this regulation, references to the “annual rate” of retirement pension or of the remuneration of a former employment or concurrent employment are references to the annual rate of such a pension or remuneration with official increases.
- (6) In paragraph (5) “official increases”, in relation to a pension or remuneration, means the increases (if any) by which an annual pension of an amount equal to the annual rate of that pension or remuneration would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971 during the period ending with the day immediately preceding the day on which the person in question entered the new employment, on the assumption—
- (a) that that pension was specified in Part II of Schedule 2 to that Act and began for the purposes of that Act on the day the pension actually began or, as the case may be, the next day after that on which he ceased to hold the employment; and
 - (b) that he had on that day attained the age of 55.
- (7) In calculating the annual rate of remuneration of a former, concurrent or new employment, paragraph 5 of Schedule D5 to the LGPS Regulations (re-employed pensioners) shall apply on the relevant assumptions—
- (a) as if a former or concurrent employment were a former employment, and a new employment were a new employment within the meaning of that paragraph; and
 - (b) with respect to paragraph 5(1)(a) of that Schedule, as if the source of entitlement were the LGPS Regulations;

but, in relation to a period of special service, paragraph 5(2)(b) of that Schedule shall have effect as if the words “or he made” onwards were omitted.

Cessation of new employment

- 16.—**(1) Where—
- (a) a person who has been granted a credited period under regulation 7 has ceased to hold a new employment in which he was a LGPS member or an assumed member; and
 - (b) the aggregate of—
 - (i) the total period of membership (to be taken into account under the LGPS Regulations in the calculation of his retirement pension on cessation of his new employment, on the relevant assumptions); and
 - (ii) the period of residual entitlement which he has to his credit,exceeds the total period of membership which would have been so taken into account if he had held his former employment until his 65th birthday, his annual compensation shall be abated in accordance with regulation 17.
- (2) Where a period of pre-material date extra service has been granted to a person, paragraph (1) (b) has effect with the substitution for the reference to former employment—
- (a) if it has been granted in respect of one cessation of employment which occurred before the material date, of a reference to that employment; and

(b) if it has been granted to him in respect of more than one such cessation, of a reference to the first such employment to cease.

(3) The abatement under paragraph (1) shall have effect from the day the person in question becomes entitled to receive benefits under Part D of the LGPS Regulations in relation to his new employment (or but for a relevant disqualification and on the relevant assumptions would become so entitled).

(4) For the purposes of paragraph (1), the total period of membership of a person includes membership which, but for this paragraph, would be excluded by virtue of paragraph 4(7) of Schedule B1 to the LGPS Regulations (exclusion of periods in respect of which transfer values paid).

(5) In this regulation “annual compensation”, in relation to a person, means the compensation payable to him under regulation 9—

(a) after any necessary adjustments under regulations 11 and 18; and

(b) in a case where he has held a previous new employment (that is to say, a new employment which ceased before cessation of the new employment referred to in paragraph (1)), after any necessary adjustments under this regulation made as respects that previous new employment, but disregarding any reduction under regulation 17(3).

(6) For the purposes of paragraph (1), a person has to his credit a period of residual entitlement equal to the aggregate of—

(a) any period of pre-material date extra service granted to him, reduced as may be necessary in accordance with paragraph (7); and

(b) his credited period, reduced as may be necessary in accordance with paragraph (8).

(7) Where—

(a) after the first cessation of employment in respect of which a period of pre-material date extra service was granted to him a person has ceased to hold another employment; and

(b) his pre-material date extra service has been reduced by, or his compensation or benefit attributable to such a period has been reduced on account of, the period of that other employment or a part of it (“the reduction period”),

his pre-material date extra service shall, for the purposes of paragraph (6)(a), be reduced by the reduction period.

(8) Where there has been an abatement of a person’s annual compensation in accordance with this regulation on account of a period of previous new employment or a part of such a period (“the abatement period”), then for the purposes of paragraph (6)(b) the length of his credited period shall be reduced by the abatement period.

(9) In this regulation “pre-material date extra service” has the meaning given in regulation 7(3)(b).

Reduction of annual compensation on cessation of new employment

17.—(1) The abatement in a person’s annual compensation referred to in regulation 16(1) is its reduction by an annual sum equal to the relevant fraction of the amount calculated in accordance with paragraph (5); and the amount of the annual compensation as so reduced is in this regulation referred to as “reduced annual compensation”.

(2) Subject to paragraphs (3) and (5), the reduced annual compensation is payable to the person in question in lieu of his annual compensation (as defined in regulation 16(5)).

(3) Where on cessation of his former employment a person became entitled to lump sum compensation, his reduced annual compensation shall be further reduced by an amount (“the abatement amount”) equal to the relevant fraction of the amount calculated in accordance with paragraph (5), so that no instalment of reduced annual compensation becomes payable to him until the aggregate of reductions equals the abatement amount.

(4) In this regulation “the relevant fraction” means the fraction, ascertained in accordance with regulation D2 of the LGPS Regulations, which was the fraction used—

- (a) in the case of paragraph (1), in determining the increase in pension mentioned in regulation 9(2) for the purpose of determining the rate of the annual compensation; or
- (b) in the case of paragraph (3), in determining the increase in grant mentioned in regulation 8(2) for the purpose of determining the lump sum compensation.

(5) The amount to be calculated in accordance with this paragraph is an amount equal to the product of—

- (a) the smaller of—
 - (i) the pensionable remuneration of the person’s former employment; and
 - (ii) the pensionable remuneration of his new employment (after deducting the notional indexed increase); and
 - (b) the shortest of—
 - (i) his credited period;
 - (ii) the total period of membership to be taken into account in relation to his new employment (as described in regulation 16(1)(b)(i)); and
 - (iii) the period of excess referred to in regulation 16(1)(b);
- and for the purposes of paragraph (b) periods shall be expressed in years and fractions of a year.

(6) For the purposes of paragraph (5), the notional indexed increase, in relation to the pensionable remuneration of a person’s new employment, is such proportion of it as the aggregate of any increases which would have been awarded in respect of the relevant period under the Pensions (Increase) Act (Northern Ireland) 1971 on an official pension of £100 a year which commenced from the first day of the relevant period, bears to the amount of an official pension of £100 as so increased.

(7) In paragraph (6) “the relevant period” means the period beginning with the day following cessation of the former employment and ending with the day the person becomes entitled (or but for a relevant disqualification and on the relevant assumptions would become entitled) to a retirement pension in respect of the new employment (notwithstanding that the right to the payment of such pension may be deferred).

Surrenders

Allocation of part of annual compensation

18.—(1) Where an eligible person who has been granted a credited period under regulation 7 has been allowed, in accordance with regulation D14 of the LGPS Regulations, to surrender a part of the retirement pension to which he would otherwise be entitled on ceasing to hold his former employment (“the surrendered part”), he may give notice to his employing authority that he wishes this regulation to apply to him.

(2) Notice under paragraph (1) must be given by a person before the expiry of the period of one month beginning—

- (a) in the case of a person who has not entered a new employment, with—
 - (i) the date on which he is given notification under regulation 26(a) of the grant of the credited period; or
 - (ii) his NRD,
- whichever is the later;

- (b) if he has entered new employment, with—
 - (i) the date on which that employment ceases;
 - (ii) the date on which he is given notification under regulation 26(c) of any adjustment made by reason of that cessation; or
 - (iii) his NRD,
 whichever is the latest.

(3) A person who duly gives notice under this regulation may surrender any part of his annual compensation (not exceeding the surrendered pension percentage), on the like terms and conditions and for the like consideration as if his annual compensation were a retirement pension to which he had become entitled by virtue of regulation D6(2)(a) of the LGPS Regulations (early retirement on redundancy etc.).

(4) In paragraph (3) “the surrendered pension percentage”, in relation to any person, means the same percentage as the surrendered part of the retirement pension is of the retirement pension to which he would be entitled apart from the surrender.

(5) In this regulation “annual compensation”, in relation to any person, means the compensation payable under regulation 9, adjusted as may be necessary—

- (a) in accordance with regulation 11;
- (b) if he is a person to whom such an allowance for life as is mentioned in paragraph (2) of regulation 13 has been granted, in accordance with that regulation; and
- (c) in accordance with regulation 17 (but disregarding any reduction under regulation 17(3)).

(6) In the case of a person to whom regulation D14 of the LGPS Regulations does not apply because of a relevant disqualification—

- (a) paragraph (1) shall have effect as if he had been allowed to surrender as mentioned in that paragraph; and
- (b) the annual compensation which he is entitled to surrender in accordance with paragraph (3) shall be such part as he may specify in the notice required under paragraph (1).

Awards to surviving spouses

Entitlement to surviving spouses' short-term and long-term compensation

19.—(1) This regulation applies where an eligible person who has been granted a credited period under regulation 7 dies and is survived by a spouse or spouses—

- (a) who is or, as the case may be, who are jointly entitled to receive a pension under Part F of the LGPS Regulations (surviving spouses' pensions) in relation to the deceased's former employment; or
- (b) who would be so entitled apart from—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies the surviving spouse is or, as the case may be, the surviving spouses are jointly entitled to receive—

- (a) surviving spouse's short-term compensation—
 - (i) in the case of a surviving spouse who has (or one of whose spouse's other surviving spouses has) one or more eligible children in his care, for the period of six months after the date of the death; and

(ii) otherwise, for the period of three months after that date; and
(b) after that period, surviving spouse's long-term compensation;
and where surviving spouses are jointly entitled to compensation under this regulation, the employing authority may decide how it shall be apportioned between them.

(3) If the marriage with the deceased took place after the material date, a surviving spouse is only entitled to receive surviving spouse's short-term or long-term compensation calculated as if the amount of the spouse's compensation was determined by reference only to the period by reference to which surviving spouse's pension is determined by virtue of regulation F6(2) of the LGPS Regulations (or would be so entitled apart from the matters mentioned in paragraph (1)).

Amount of surviving spouse's short-term and long-term compensation

20.—(1) Surviving spouse's short-term compensation is payable at an annual rate equal to the rate at which any annual compensation would have been payable to the deceased in accordance with these Regulations immediately before his death if there were disregarded any adjustment in accordance with regulation 12, 13 or 17(3).

(2) Surviving spouse's long-term compensation is the relevant fraction of any annual compensation which would have been payable to the deceased in accordance with these Regulations immediately before his death—

(a) if there were disregarded—

(i) any adjustment in accordance with regulation 11, 12, 13, 17(3) or 18;

(ii) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was not a LGPS member, any adjustment in accordance with regulations 14 and 15; and

(b) in a case where at the date of death the deceased was in a new employment in which he was a LGPS member, if that annual compensation were reduced in accordance with regulation 17 on the assumption that the total period of membership referred to in regulation 17(5)(b)(ii) were the membership which the deceased would have been entitled to count as membership on the relevant assumptions if at the date of death the deceased had been such a person as is mentioned in regulation D7(1)(b) of the LGPS Regulations.

(3) In paragraph (2) "the relevant fraction" is one half.

(4) Where a surviving spouse receives periodic payments in respect of any period, surviving spouse's short-term or long-term compensation is only payable in respect of that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(5) In paragraph (4) "periodic payment" means an instalment of an allowance for life or other period (other than annual compensation under these Regulations) granted to the surviving spouse by the deceased's employing authority, in consequence of or as compensation for the loss of the deceased's former employment, under an enactment, or a contract or arrangement with that authority (excluding a payment which is an excepted payment in relation to that employment).

Awards to surviving children

Entitlement to children's short-term compensation

21.—(1) This regulation applies where an eligible person who has been granted a credited period under regulation 7 dies and is survived by an eligible child or children—

(a) who is or are entitled to receive a children's short-term pension under regulation G4 or G7 of the LGPS Regulations in relation to the deceased's former employment; or

- (b) who would be so entitled apart from—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.
- (2) Where this regulation applies, children’s short-term compensation is payable to or for the benefit of such eligible child or eligible children as are mentioned in paragraph (1)—
 - (a) if a children’s short-term pension under regulation G4 or G7 of the LGPS Regulations is payable for the period of 3 months beginning with the date of the death, for that period; and
 - (b) otherwise, for the period of 6 months beginning with that date.
- (3) Children’s short-term compensation is not payable in respect of a period for which surviving spouse’s short-term compensation is payable to the surviving spouse of the deceased.

Amount of children’s short-term compensation

22.—(1) Children’s short-term compensation is payable at an annual rate equal to the rate at which any annual compensation would have been payable to the deceased in accordance with these Regulations immediately before his death, disregarding any adjustment in accordance with regulation 12, 13 or 17(3).

(2) Where periodic payments are received in respect of a child in respect of any period, children’s short-term compensation is only payable in respect of that child and that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(3) In paragraph (2) “periodic payment” means an instalment of an allowance for life or other period (other than annual compensation under these Regulations) granted to or in respect of the child by the deceased’s employing authority, in consequence of or as compensation for the loss of the deceased’s former employment, under an enactment, or a contract or arrangement with that authority (excluding a payment which is an excepted payment in relation to that employment).

Entitlement to children’s long-term compensation

23.—(1) This regulation applies where an eligible person who has been granted a credited period under regulation 7 dies and is survived by an eligible child or children—

- (a) in respect of whom there is an entitlement to receive a children’s long-term pension under regulation G3, G5 or G6 of the LGPS Regulations in relation to the deceased’s former employment; or
- (b) in respect of whom there would be such an entitlement apart from—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.
- (2) Where this regulation applies, children’s long-term compensation is payable to or for the benefit of such eligible child or eligible children—
 - (a) if a children’s long-term pension under regulation G3, G5 or G6 of the LGPS Regulations is payable following the expiry of the period of 3 months beginning with the date of death, from the day following the expiration of that period; or
 - (b) otherwise, from the day following the expiry of the period of 6 months beginning with the date of death.

Amount of children's long-term compensation

24.—(1) Children's long-term compensation is payable at an annual rate equal to the appropriate fraction of the deceased's annual compensation.

(2) In paragraph (1) "the appropriate fraction" means—

(a) where there is a surviving spouse to whom surviving spouse's short-term compensation or long-term compensation is payable (or would be payable apart from regulation 19(4))—

(i) if there is one eligible child, one quarter; and

(ii) if there are two or more eligible children, one half;

(b) where there is no such surviving spouse or in respect of any period after the death of such a surviving spouse—

(i) if there is one eligible child, one third; and

(ii) if there are two or more eligible children, two thirds.

(3) For the purposes of paragraph (1), "the deceased's annual compensation" means any annual compensation which would have been payable to the deceased in accordance with these Regulations immediately before his death—

(a) if there were disregarded—

(i) any adjustment in accordance with regulation 11, 12, 13, 17(3) or 18; and

(ii) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was not a LGPS member, any adjustment in accordance with regulation 14 and 15; and

(b) in a case where at the time of the deceased's death, the deceased was in a new employment in which he was a LGPS member, if that annual compensation was reduced in accordance with regulation 17, on the assumption that the total period of membership referred to in regulation 17(5)(b)(ii) was the membership which he would have been entitled to reckon as membership on the relevant assumptions if he had been, at the time of his death, a person such as is mentioned in regulation D7(1)(b) of the LGPS Regulations.

(4) Where periodic payments (as defined in regulation 22(3)) are received in respect of a child in respect of any period, children's long-term compensation is only payable in respect of that child and that period if, and to the extent that, it exceeds the amount of the aggregate of those periodic payments.

(5) If an eligible child to whom, or for whose benefit, children's long-term compensation is payable—

(a) has attained the age of 17; and

(b) is in receipt of remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate,

then—

(i) the annual rate of the children's long-term compensation shall be reduced by an amount equal to the amount of that excess (less any reduction made in the children's long-term pension in respect of that excess under regulation G10(1) of the LGPS Regulations); or

(ii) if it would result in a smaller reduction of the children's long-term compensation, that child shall be disregarded for the purpose of calculating the amount of that compensation.

(6) In paragraph (5)(b) "the indexed training rate" means the annual rate at which an official pension would for the time being be payable if it had begun on 1st April 1994 and had then been payable at an annual rate of £1,450.

Payment of children's compensation

25.—(1) In a case where children's compensation is payable in respect of children in relation to whom children's short-term pension or children's long-term pension is paid under regulation G11 of the LGPS Regulations (discretions as to payment of children's pensions), children's compensation—

- (a) is payable to the same person; and
- (b) is payable for the benefit of the eligible children in the same proportions, as the children's pension is payable.

(2) If children's short-term pension or children's long-term pension is not paid under regulation G11 of the LGPS Regulations because—

- (a) of a relevant disqualification with respect to the deceased; or
- (b) of the transfer of benefits to another pension scheme,

but otherwise (and on the relevant assumptions) it would be so payable, the employing authority shall decide to whom the children's compensation is payable and in what shares it is to be apportioned amongst the eligible children.

Miscellaneous and supplemental

Notification of compensation

26. Before the expiry of the period of one month beginning with the date of—

- (a) the grant of a credited period to any person under regulation 7;
- (b) the death of a person to whom such an award has been made; or
- (c) the making of any adjustment affecting the compensation payable to a person in accordance with this Part,

the employing authority shall give that person, or any other person to whom compensation is payable in accordance with this Part, written notification of the compensation payable or, as the case may be, of the adjustment, giving details of the calculation in question.

Information

27.—(1) Where a person who has been granted a credited period under regulation 7 enters or ceases to hold a new employment, before the expiry of the period of one month beginning with the date on which he does so he shall give his employing authority written notification of that fact.

(2) A person to whom compensation is payable in accordance with this Part shall —

- (a) furnish all such information as the employing authority may at any time reasonably require; and
- (b) verify that information in such manner, including by the production of documents in his possession or control, as may be reasonably so required.

Payment of compensation

28.—(1) Compensation (other than lump sum compensation) which is payable to a person under this Part shall be payable at intervals equivalent to those at which his pension is payable under the LGPS Regulations (or would have been so payable but for a relevant disqualification and on the relevant assumptions or, as the case may be, the transfer of benefits to another pension scheme), or at such other intervals as may be agreed between him and the paying authority.

(2) Without prejudice to any statutory provision to the contrary, any compensation payable under this Part —

- (a) shall be payable to or in trust for the person entitled to receive the compensation; and
- (b) shall not be assignable or chargeable with his debts or other liabilities.

(3) Where any compensation under this Part is paid in error to any person (including an overpayment) —

- (a) he shall as soon as practicable repay it to the paying authority; and
- (b) the paying authority may recover it from him (including, but without prejudice to any other means of recovery, by deducting it from any compensation payable to or in respect of him under this Part).

(4) In this regulation “the paying authority” means the authority which, in accordance with regulation 30, pays the compensation.

Interest on sums due under Part III

29.—(1) Where all or part of any sum due under this Part by way of compensation is not paid before the expiry of the relevant period after the date on which it becomes payable, the paying authority shall pay the person to whom the sum is payable interest on the amount remaining unpaid, calculated at one per cent above base rate on a day to day basis from that date to the date of payment, and compounded with three-monthly rests.

(2) In paragraph (1) “the relevant period” means—

- (a) in the case of compensation payable in the form of a lump sum, one month; and
- (b) in the case of other compensation, one year.

Paying authority

30.—(1) Subject to paragraph (2), compensation payable under this Part shall be paid by the employing authority.

(2) Subject to paragraph (3), the Committee in relation to any person who is entitled to any compensation under this Part may agree with the employing authority to pay any compensation arising in respect of that person on its behalf and to recover the amount from it within such period (subject to paragraph (4)) and on such terms as the Committee may determine.

(3) Compensation payable in the form of a lump sum may not be paid from the fund.

(4) The amount of any other compensation paid by the Committee on behalf of an employing authority must be repaid to the Committee by the employing authority immediately or within a period of up to two months from the payment being made, as may be agreed.

Part IV

Other compensation for redundancy

Compensation for redundancy where Part III does not apply

31.—(1) This Part applies where any person who is or is eligible to be a LGPS member—

- (a) ceases to hold his employment with a LGPS employer—
 - (i) by reason of redundancy; or
 - (ii) in the interests of the efficient exercise of that employer’s functions;

- (b) in respect of that loss of employment is not disentitled to a redundancy payment under Part XI of the 1996 Order by virtue of Article 240(2) of that Order (agreements to exclude rights to redundancy payments on expiry of short fixed term contracts) and either—
 - (i) is not eligible to benefit under Part III, or
 - (ii) is eligible but has not been granted a credited period under regulation 7 by his LGPS employer;
 - (c) has attained the age of 18 on the material date and, unless he has attained the age of 50 on that date, is entitled to count a qualifying employment of at least 2 years;
 - (d) on the material date has a total period of membership of 40 years or less; and
 - (e) has not attained the age of 65 on that date.
- (2) Where this Part applies, the LGPS employer may before the end of the period of six months beginning with the material date determine to pay compensation of an amount not exceeding a sum equivalent to 66 weeks' pay or, if it is less—
- (a) in the case of an employee who has attained the age of 18 but not 20 on that date, one half week's pay for each complete year of qualifying employment after attaining the age of 18;
 - (b) in the case of an employee who has attained the age of 20 but not 23 on that date, one half week's pay—
 - (i) for each complete year of qualifying employment after attaining the age of 18; and
 - (ii) for each complete year of qualifying employment after attaining the age of 20;
 - (c) in the case of an employee who has attained the age of 23 but not 41 on that date, two weeks' pay for each complete year of qualifying employment after attaining the age of 18;
 - (d) in the case of an employee who has attained the age of 41 on that date—
 - (i) two weeks' pay for each complete year of qualifying employment after attaining the age of 18; and
 - (ii) three weeks' pay for each complete year of qualifying employment after attaining the age of 41.
- (3) In any case, the maximum amount shall not exceed one week's pay for each week (fractions of a week being disregarded) between the material date and the employee's 65th birthday.
- (4) If any redundancy payment is made to the employee, an amount equivalent to it shall be deducted from the amount of the compensation otherwise payable to him under this Part.
- (5) After making a determination under paragraph (2) in respect of a person, a LGPS employer shall as soon as is reasonably practicable give him written notification of the compensation payable, giving details of the calculation in question.
- (6) Without prejudice to any statutory provision to the contrary, any compensation payable under this Part—
- (a) shall be paid by the LGPS employer, as soon as practicable after making a determination under paragraph (2), in the form of a lump sum payment to or in trust for the person entitled to receive the compensation; and
 - (b) shall not be assignable or chargeable with his debts or other liabilities.
- (7) For the purposes of this Part a week's pay shall be calculated in accordance with provisions of Chapter IV of Part I of the 1996 Order (calculation of normal working hours or a week's pay) and for the purposes of that calculation references to the calculation date in the 1996 Order shall be treated as the material date.
- (8) For the purpose of calculating the compensation payable to a person under this Part, the LGPS employer shall not include any years of qualifying employment which it or a previous LGPS

employer has taken into account in calculating compensation which has been paid to him previously under these Regulations or other regulations made under Article 19 of the 1972 Order (except for concurrent qualifying employment).

(9) No period of qualifying employment which has been taken into account in calculating compensation paid under this Part may be taken into account for the purposes of calculating compensation to be paid under these Regulations or other regulations made under that Article (except, in the case of a calculation by a LGPS employer, for concurrent qualifying employment).

(10) In this Part—

“concurrent qualifying employment”, in relation to a calculation by a LGPS employer, means qualifying employment with that employer which is concurrent with qualifying employment with that or another LGPS employer;

“excluded employment” means a period of employment in relation to which a pension or other benefits (other than a refund of contributions) are being or have been paid under an occupational pension scheme;

“qualifying employment”, in relation to an employee, means a period of employment (other than excluded employment) in relation to which the LGPS employer is satisfied that the employee was in local government employment (within the meaning of the LGPS Regulations) or was in employment which would have been such employment but for a relevant disqualification;

“relevant disqualification”, in relation to an occupational pension scheme, means any of the following reasons in consequence of which (either alone or taken together) a person has not become, has ceased to be or has not been treated as being eligible for membership of the Scheme, namely—

- (a) the failure of a medical examination required for such membership;
- (b) the making of any election to opt out of or the absence of an election to opt into such membership with respect to any period of employment; and
- (c) a restriction excluding some part-time employment from being employment to which the Scheme applies;

and other expressions used in this Part and in Part III have the same meaning as in that Part.

Part V

Injury Allowances etc.

Interpretation of Part V

32.—(1) In this Part relevant employment is employment (otherwise than as a member of the fire brigade as defined in Article 2(2) of the Fire Services (Northern Ireland) Order 1984⁽²⁴⁾ or as an employee pensionable under the superannuation scheme provided in regulations for the time being in force under Article 11 of the 1972 Order or as an employee of Citybus Limited or Ulsterbus Limited) with a LGPS employer.

(2) In this Part “the relevant employer”, in relation to any person, means—

- (a) the employer by whom the person in question was employed immediately before he first qualifies for any allowance or lump sum payable under this Part;
- (b) if he dies without qualifying for any such allowance or lump sum, the employer who last employed him in a relevant employment before his death; or

(24) S.I. 1984/1821 (N.I. 11)

- (c) if the employer specified in sub-paragraph (a) or (b) has ceased to exist, the employer to whom he would have been transferred if he had continued in the employment in question.
- (3) For the purposes of this Part, if a person—
 - (a) sustains an injury while travelling as a passenger by vehicle to or from his place of work with his employer’s permission (whether express or implied); and
 - (b) at the time of the injury the vehicle was being operated (otherwise than in the course of a public transport service) by or on behalf of, or pursuant to arrangements made by, his employer,
 he shall be treated as having sustained the injury as a result of a requirement of carrying out his work.

Loss of employment through permanent incapacity

33.—(1) If—

- (a) as a result of anything he was required to do in carrying out his work a person who is employed in a relevant employment—
 - (i) sustains an injury; or
 - (ii) contracts a disease; and
 - (b) he ceases to be employed in that or any other relevant employment as a result of an incapacity which is likely to be permanent and was caused by the injury or disease,
- he shall be entitled to an annual allowance not exceeding 85 per cent. of his annual rate of remuneration in respect of the employment when he ceased to be employed.

(2) The allowance is to be paid by the relevant employer and, subject to paragraph (1), is to be of such amount as that employer may from time to time determine.

(3) In ascertaining for the purposes of paragraph (1) a person’s annual rate of remuneration when he ceased to be employed—

- (a) the annual rate of any fluctuating element included in his remuneration is to be estimated by reference to an average taken over a representative period;
- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind as at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is that which would have applied if he had not been absent;
- (d) if at that date he was entitled to an allowance under regulation 34 by reason of a reduction in his remuneration (whether as a result of the same or another injury or disease), the annual rate is that which would have applied if his remuneration had not been reduced;
- (e) if his remuneration is calculated by reference to a rate which is not annual, the annual rate is to be derived from the applicable rate at that date; and
- (f) if his remuneration is retrospectively altered as a result of a pay award, the annual rate is that based on the award.

(4) The relevant employer may suspend or discontinue the allowance under this regulation if the person becomes capable of working again.

Reduction in remuneration

34.—(1) If—

- (a) as a result of anything he was required to do in carrying out his work a person who is employed in a relevant employment—

(i) sustains an injury; or

(ii) contracts a disease,

and suffers a reduction in his remuneration while he is employed in that or any other relevant employment; and

(b) regulation 33 does not apply,

he shall be entitled to an allowance while the reduction continues.

(2) For the purposes of paragraph (1), a person's remuneration is to be treated as reduced at any time when it is lower than it would have been but for the injury or disease.

(3) The allowance under paragraph (1) is to be paid by the relevant employer and is to be of such amount as the employer may from time to time determine, but must not in any year exceed the shortfall between—

(a) the person's remuneration in the relevant employment; and

(b) the remuneration he would have been paid if he had not sustained the injury or, as the case may be, contracted the disease.

Allowances for pensioners

35.—(1) Where a person ceases to be employed in a relevant employment, if—

(a) immediately before so ceasing he was entitled to an allowance under regulation 34;

(b) on so ceasing regulation 33 does not apply, but he becomes entitled under Part D of the LGPS Regulations to receive payments in respect of an annual retirement pension and paragraph 4(1) of Schedule D1 to those Regulations (different relevant period for calculating pensionable remuneration where a material reduction has been certified) does not apply; and

(c) the annual rate of the retirement pension in any year falls short of what it would have been if the amount of the allowance paid under regulation 34 during the period which is the relevant period for the purposes of regulation D1 of the LGPS Regulations had been part of his remuneration in the relevant employment,

the relevant employer may pay him an allowance (but not of an amount in any year exceeding that shortfall).

(2) An allowance under this regulation continues for such period as the relevant employer may determine.

Death benefits

36.—(1) If—

(a) as a result of anything he was required to do in carrying out his work a person who is employed in a relevant employment—

(i) sustains an injury; or

(ii) contracts a disease; and

(b) he dies as a result of the injury or disease,

then—

(i) if the deceased leaves a surviving spouse or spouses, the surviving spouse or all of them shall be entitled to an annual allowance or lump sum; and

(ii) if the deceased leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.

(2) The allowance or lump sum is to be paid by the relevant employer and is to be of such amount as the employer may from time to time determine.

(3) An allowance paid to a dependant shall continue for such period as the relevant employer may determine.

Considerations in determining amount of benefits

37.—(1) In determining the amount of an allowance under regulation 33 or 34 or of an allowance or a lump sum under regulation 36, the relevant employer is to have regard to all the circumstances of the case, including the matters specified in paragraph (2) (except in so far as they are excluded by paragraph (3)).

(2) The matters mentioned in paragraph (1) are—

- (a) any right to benefit under Part V of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽²⁵⁾;
- (b) any other statutory right to benefit or compensation;
- (c) any right to receive pension benefit (whether payable under an enactment or otherwise); and
- (d) any damages recovered and any sum received by virtue of a contract of insurance.

(3) In the case of an allowance or a lump sum which is payable by virtue of a person having sustained an injury, no regard shall be had—

- (a) to any benefit payable periodically which the person was entitled to be paid before the injury was sustained;
- (b) to any right which accrued before that time; or
- (c) to any damages or sum received by virtue of such a right.

Part VI

Miscellaneous and Supplementary

Decisions and Appeals

Decisions

38.—(1) Any question concerning the rights of any person or his eligibility to be considered for any award under Part V shall be decided in the first instance by the relevant LGPS employer, that is to say the LGPS employer which last employed the person in respect of whose employment the question arises; and any question arising under regulation 32(2)(c) as to the identity of the employer to which the person would have been transferred shall be determined by the Department.

(2) A decision by the relevant employer does not bind any other LGPS employer or the Department.

(3) The questions specified in paragraph (1) shall be decided as soon as is reasonably practicable after the occurrence of the last event by virtue of which the award may be payable.

(4) A body which has decided any question under this regulation shall, as soon as is reasonably practicable after doing so, send a written notification of its decision to every person affected by it.

(5) The notification shall include—

(25) 1992 c. 7; section 102 was repealed by S.I. 1994/1898 (N.I. 12) Article 13 and Schedule 1 Part 1

- (a) the grounds for the decision; and
- (b) a conspicuous statement directing the person's attention to his right under that paragraph to appeal to the county court under regulation 39(1).

Appeals

39.—(1) Where the relevant employer has decided or failed to decide any such question as is mentioned in regulation 38(1) that question shall be determined by the county court having jurisdiction in the division in which such person as is mentioned in regulation 38(1) is employed or was last employed or, where such person is employed or was last employed in two or more divisions, in one of those divisions.

(2) The county court shall not determine any question that fell to be decided by the relevant employer in the exercise of a discretion conferred by Part V of these Regulations.

Supplemental

Finance

40. The cost of any payment to be made under these Regulations is not to be met out of the fund.

Transitional provisions

41. Schedule 3 shall have effect for the purpose of making transitional provisions and savings.

Revocations

42.—(1) The subordinate legislation specified in Schedule 4 is revoked to the extent specified in the third column (but subject to the savings in Schedule 3).

(2) Nothing in Schedule 4 affects any savings contained in Schedule M1 to the LGPS Regulations.

Sealed with the Official Seal of the Department of the Environment on 17th July 2001.

L.S.

Sam Foster
Minister of the Environment

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SCHEDULE 1

Regulation 2(1)

Part I

EMPLOYING AUTHORITIES TO WHICH PARTS II AND III APPLY

A district council;
Northern Ireland Local Government Officers' Superannuation Committee;
Northern Ireland Housing Executive;
An Education and Library Board;
Fire Authority for Northern Ireland;
Local Government Staff Commission;
Staff Commission for Education and Library Boards;
University of Ulster, except that these regulations apply only to a person who was employed immediately before 1st October 1984 by the Governors of the Ulster Polytechnic;
The governing body of a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986⁽²⁶⁾;
The Management Board of a training school set up under the provisions of section 138 of the Children and Young Persons Act (Northern Ireland) 1968⁽²⁷⁾;
Probation Board for Northern Ireland;
Northern Ireland Fishery Harbour Authority;
The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997⁽²⁸⁾; and
Laganside Corporation.

Part II

LGPS EMPLOYERS TO WHICH PART V APPLIES

A district council;
Northern Ireland Local Government Officers' Superannuation Committee;
Northern Ireland Housing Executive;
An Education and Library Board;
Fire Authority for Northern Ireland;
Local Government Staff Commission;
Staff Commission for Education and Library Boards;
The governing body of a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986;
The Management Board of a training school set up under the provisions of section 138 of the Children and Young Persons Act (Northern Ireland) 1968;

⁽²⁶⁾ S.I. 1986 No. 594 (N.I. 13)

⁽²⁷⁾ 1968 c. 34 (N.I.) as substituted by Schedule 16 to S.I. 1972/1265 (N.I. 14) and replaced by Article 51 of and Schedule 4 to S.I. 1998/1504 (N.I. 9)

⁽²⁸⁾ S.I. 1997/1772 (N.I. 15)

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Probation Board for Northern Ireland; and
 The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997.

SCHEDULE 2

Regulation 11

Appropriate percentages for adjustment of annual compensation for redundancy payments

TABLE

<i>Age last birthday</i>	<i>Appropriate percentage</i>	
	<i>Male</i>	<i>Female</i>
50	6.04	5.61
51	6.12	5.66
52	6.21	5.72
53	6.31	5.80
54	6.45	5.90
55	6.59	6.02
56	6.75	6.13
57	6.92	6.26
58	7.10	6.40
59	7.30	6.55
60	7.51	6.70
61	7.73	6.87
62	7.97	7.05
63	8.23	7.24
64	8.51	7.45

SCHEDULE 3

Regulation 41

Transitional provisions and savings

Part I

1. Regulation 3 does not apply if the cessation of employment referred to in paragraph (1) of that regulation occurred before 15th May 1986.

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Part II

2. Nothing in Part III applies to a person who ceased to hold his employment with an employing authority as mentioned in regulation 5(1)(a) before 29th March 1976.

3. Where the employment by reference to the cessation of which a period might fall to be credited ceased to be held before 6th April 1988, Part III shall have effect as if the amendments made by the Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991⁽²⁹⁾ had not been made (and, in particular, that Part shall have effect with such modifications as are necessary for the omission of references to assumed members and the expressions defined in regulation 6).

4. If the material date was before 1st April 1983, regulation 7 shall have effect with the substitution for any reference to the material date of a reference to that date.

5. Regulations 12 and 13 do not apply to the compensation payable to a person whose material date is before 1st April 1983.

6. In a case where the death occurs on or before 5th April 1988, regulation 19(2) applies with the omission of paragraph (a)(i) and the word “otherwise” in paragraph (a)(ii).

7. Regulations 20(4), 22(2) and 24(4) do not apply if the material date in relation to the deceased was before 1st April 1983.

8. As respects any female employee who—

- (a) duly elected under regulation E12(1)(b) or(2)(b) of the 1992 Regulations (election by wife of dependent and permanently incapacitated husband);
- (b) duly elected under regulation 11(1) of the 1983 Regulations (similar elections and elections by unmarried women with potentially eligible children); or
- (c) immediately before these Regulations came into force was a person to whom regulation 11(2) of the 1983 Regulations applied,

these Regulations have effect as if references in them to provisions in Parts D, F and G of the LGPS Regulations were references to those provisions as modified by paragraphs 2 and 3 of Schedule F1 to those Regulations.

Part III

9. Regulation 31 does not apply if the cessation of employment referred to in paragraph (1) of that regulation occurred before 28th December 1994.

SCHEDULE 4

Regulation 42

Subordinate legislation revoked

<i>Year and Number</i>	<i>Title</i>	<i>Extent of revocation</i>
1983 No. 30	Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983	All the Regulations.

⁽²⁹⁾ S.R. 1991 No. 19

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<i>Year and Number</i>	<i>Title</i>	<i>Extent of revocation</i>
1986 No. 80	Local Government (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland 1986	All the Regulations.
1991 No. 19	Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991	Part III
1992 No. 547	Local Government (Superannuation) Regulations (Northern Ireland) 1992	Part L and Schedule 19 and the other provisions of the Regulations in so far as are required for the purposes of Part L and Schedule 19
1998 No. 41	Local Government (Superannuation and Compensation) (Institutions of Further Education) Regulations (Northern Ireland) 1998	Part III
1998 No. 286	Local Government (Compensation for Premature Retirement) (Amendment) Regulations (Northern Ireland) 1998	All the Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations consolidate, with amendments, the provisions of the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983, and Part II of the Local Government (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1986. Part V of these Regulations replaces extant Part L (injury allowances) of the Local Government (Superannuation) Regulations (Northern Ireland) 1992 which is now revoked. These Regulations contain all the provisions relating to discretionary payments.

Part II (enhanced redundancy payments) and Part III (compulsory added years) apply only to those employers listed in Part I of Schedule 1. Part IV provides for a lump sum compensation payment where Part III does not apply and applies to those employers listed in Part I of Schedule 1 and to admission agreement employers. Part V (injury allowances) applies to those employers listed in Part II of Schedule 1 and to admission agreement employers with the exception of Citybus Limited and Ulsterbus Limited.

The main changes are as follows—

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- provision for the holder of a joint appointment whose appointment has been terminated because the other holder ceased to hold his appointment may now be considered for a discretionary award under Part III (regulation 5(1)(a)(iii));
- the need to take into account any previous pension rights to determine the maximum added years. Employers must ensure, as far as possible, that appropriate enquiries are made when making an award (regulation 10);
- with effect from 6th April 1988 widowers' annual compensation is payable similar to that of widows (regulations 19(1) and (2) and 20);
- surviving spouses of post retirement marriages of employees awarded compensatory added years may receive part of the annual compensation (regulation 19(3));
- annual surviving spouses' compensation will no longer cease on remarriage or cohabitation (regulation 19);
- with effect from 6th April 1988 children of female employees are provided with the same rights as those of male employees (regulations 21 to 24);
- to comply with overriding disclosure legislation the regulations require employers to notify the award of compensation within prescribed timescales (regulation 26);
- interest is to be added to compensation paid late in certain circumstances (regulation 29);
- the Northern Ireland Local Government Officers' Superannuation Committee has two months in which to recover from an employer the amount of any payment made on its behalf from the pension fund (regulation 30);
- provision is made for a lump sum compensation payment calculated on a sliding scale according to age and completed years of service subject to an overall limit equivalent to 66 weeks' remuneration (regulation 31);
- injury allowances, which were in the Local Government (Superannuation) Regulations (Northern Ireland) 1992, have been included in these Regulations as they are payable by employers and not from the pension fund (Part V). Provision will include death benefits to surviving spouses which will no longer cease on remarriage or cohabitation

Article 19(3)(c) of the Superannuation (Northern Ireland) Order 1972 confers express powers to make regulations retrospective in effect. These regulations are to a certain extent retrospective, however, no one will be adversely affected by the retrospective provisions.