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STATUTORY RULES OF NORTHERN IRELAND

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**2002 No. 352**

**Local Government Pension Scheme  
Regulations (Northern Ireland) 2002**

**PART II**

**PRIMARY PROVISIONS**

**CHAPTER I**

**MEMBERSHIP**

*Eligibility for active membership*

**General eligibility for membership: employees of Scheme employers etc.**

**3.—**(1) A person may only be an active member if this regulation, or regulation 4 enables him to be one and he is not prevented by regulation 5.

(2) A person may be a member if he is employed by a Scheme employer.

(3) A Scheme employer is a local authority as defined in Article 2 of the Order of 1972(1).

**Agreements to enable employees of non-Scheme employers to be members (“admission agreements”)**

**4.—**(1) The Committee may make an admission agreement with any admission body and such an agreement may provide that a period of employment by the admission body before the date of the agreement counts as membership of the Scheme (or does so for some purposes).

(2) An admission agreement is an agreement that all or any specified class of the admission body’s employees may be members.

(3) The following are admission bodies –

(a) a body which provides a public service in the United Kingdom otherwise than for the purposes of gain and which either –

(i) has sufficient links with a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest, whether because the operations of the admission body are dependent on the operations of the Scheme employer or otherwise, or

(ii) is approved by the Department for the purpose of admission to the Scheme;

(b) a body to the funds of which any Scheme employer contributes;

- (c) a body to which any monies are payable from monies appropriated by or under an enactment as defined in section 98(1) of the Northern Ireland Act 1998(2);
  - (d) a body representative –
    - (i) of local authorities, or
    - (ii) of local authorities and officers of local authorities, or
    - (iii) of officers of local authorities, or
    - (iv) of Scheme employers;
  - (e) a statutory undertaker;
  - (f) a non-statutory undertaker;
  - (g) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(3);
  - (h) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(4); and
  - (i) a body which provides services or assets referred to in a transfer arrangement.
- (4) An admission body referred to in paragraph (3)(d)(iii) is only an admission body if it is formed for the purpose of consultation as to the common interests of local authorities and the discussion of matters relating to local government.
- (5) Approval under paragraph (3)(a)(ii) may be subject to such conditions as the Department thinks fit and it may withdraw approval at any time if such conditions are not met.
- (6) It must be a term of an admission agreement made with a non-associated admission body within sub-paragraphs (b) and (c) of paragraph (3) that the body which provides the funding or from which monies are appropriated (and, if more than one, all of them) guarantees the liability of the admission body to pay all amounts due from it under the Regulations.
- (7) In the case of an admission agreement with a transferee admission body –
- (a) the transferor Scheme employer, if not the Committee, must be a party to the admission agreement;
  - (b) only those employees of the transferee admission body who are employed in connection with the provision of the services or assets referred to in the transfer arrangement are eligible to be members of the Scheme;
  - (c) the admission agreement shall require an indemnity or bond in an approved form and with an authorised insurer or a relevant institution; and
  - (d) provision shall be made for the matters set out in Schedule 2.
- (8) Where a transferor Scheme employer and a transferee admission body undertake to meet the requirements of paragraph (7), the Committee must admit to the Scheme the eligible employees of the transferee admission body specified by that body and, where it does so, the terms on which it does so are the admission agreement for the purposes of these Regulations.
- (9) An admission agreement must terminate if the admission body ceases to be such a body.
- (10) An admission agreement may make such other provision about its termination as the parties to the agreement consider appropriate.
- (11) When the Committee makes an admission agreement, it must promptly inform the Department of the date on which the agreement takes effect, the admission body's name and, in the

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(2) 1998 c. 47

(3) S.I. 1986/594 (N.I. 3) as amended by S.I. 1993/2810 (N.I. 12) and S.I. 1997/1772 (N.I. 15)

(4) S.I. 1997/1772 (N.I. 15)

case of an admission agreement with a transferee admission body, the name of the relevant transferor scheme employer.

(12) The Committee must notify the Commissioners of Inland Revenue of the admission of an admission body within the time prescribed in regulations made under section 605 of the Taxes Act<sup>(5)</sup> and provide such information as may be so prescribed.

(13) Any question which may arise between the Committee and any other party to an admission agreement relating to the construction of the agreement or to the rights and obligations under that agreement shall be referred in writing for determination to the Department.

(14) An employee of an admission body may not be a member if he is a member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993<sup>(6)</sup>) other than where the accrual of benefits under that pension scheme would not affect approval of the Scheme as an approved scheme.

(15) These Regulations apply to employment with an admission body in which the employee is a member in the same way as if the body were a Scheme employer.

(16) In this regulation, regulation 5 and in Schedule 2 (where applicable) –

(a) “authorised insurer” means –

(i) a person who has permission under Part IV of the Financial Services and Markets Act 2000<sup>(7)</sup> to effect or carry out contracts of insurance, or

(ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;

(b) “indemnity or bond in an approved form” means an indemnity or bond to meet a level of risk exposure arising on premature termination of the transfer arrangement actuarially assessed to the satisfaction of the Committee and the transferor Scheme employer if not the Committee;

(c) “non-associated admission body” means a body described in –

(i) paragraph (3)(a)(ii),

(ii) paragraph (3)(b) where, at the date that the admission agreement is made, the contributions paid to a body by any one or more Scheme employers equal in total 50% or less of the total amount it receives from all sources, or

(iii) paragraph 3(c);

(d) “a non-statutory undertaker” means a body who, though not authorised by any statutory provision to do so, is primarily engaged in carrying on –

(i) any railway, light railway, road transport, water transport, canal, inland navigation, dock, harbour or pier; or

(ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;

(e) “relevant institution” means –

(i) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits;

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<sup>(5)</sup> 1988 c. 1; section 605 was amended by section 105 of the Finance Act 1994 (c. 9). For the regulations, see S.I. 1995/3103

<sup>(6)</sup> 1993 c. 49

<sup>(7)</sup> 2000 c. 8

- (ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or
  - (iii) a person who is exempt from the general prohibition in respect of accepting deposits as a result of an exemption order made under section 38 (1) of that Act;
  - (f) “a statutory undertaker” means a body authorised by any statutory provision to carry on –
    - (i) any railway, light railway, road transport, water transport, canal, inland navigation, dock, harbour, or pier; or
    - (ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;
  - (g) “transferee admission body” means an admission body described in paragraph (3)(i);
  - (h) “transfer arrangement” means a contract or other arrangement made with a transferor Scheme employer for the provision of, or making available of, services or assets, for the purposes of or in connection with the exercise of a function of that transferor Scheme employer; and
  - (i) “transferor Scheme employer” means an authority or body which is a Scheme employer or an admission body.
- (17) The definitions of “authorised insurer” and “relevant institution” in paragraph (16) must be read with –
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.

### **Further restrictions on eligibility**

5.—(1) If a person’s employment entitles him to belong to another statutory pension scheme, that employment does not entitle him to be a member, unless that other scheme was made under Article 9 of the Order of 1972.

(2) A statutory pension scheme is an occupational pension scheme provided by or under an enactment.

(3) A person may not become a member after his 65th birthday.

(4) Part-time employment as a member of a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984(8) on terms under which the employee is or may be required to engage in fire fighting does not entitle the employee to be a member of the Scheme.

(5) Any person who as a member of staff of the University of Ulster is eligible to participate in the Universities' Superannuation Scheme is not entitled to be a member of the Scheme.

(6) A person who is a member and is an employee of a transferee admission body is treated as leaving a local government employment when he ceases to be employed in connection with the services or assets referred to in the transfer arrangement.

### *Joining and leaving the Scheme*

#### **Joining the Scheme**

6.—(1) A person who wishes to become an active member must apply in writing to his employer or future employer.

(2) An eligible person who applies before he begins his employment becomes a member when his employment begins unless he applies to join later.

(3) An eligible employee who applies becomes a member on the first day of the first payment period following the application.

(4) A payment period is a period of service to which the employee's wages or salary payment relate.

(5) An employee is deemed to have applied to become a member, unless he notified his employer in writing that he did not wish to do so –

- (a) before his employment began; or
- (b) if he only became eligible to be a member later, before the date he became eligible.

(6) But paragraph (5) does not apply –

- (a) to casual employees; or
- (b) to former members who opted to leave the Scheme by a notification under regulation 7.

(7) An application for membership may be withdrawn before membership begins.

(8) A former active member may reapply for such membership.

(9) But a person who has given more than one notification under regulation 7 may only reapply again if –

- (a) his employer or future employer consents; or
- (b) he is beginning a new employment with a new employing authority and he reapplies before he has been employed for three months; or
- (c) he is a person about whom information may be given under Article 164(1) of the Pensions (Northern Ireland) Order 1995, as it has effect in the case of the Scheme.

#### **Leaving the Scheme**

7.—(1) A person stops being a member if he ceases to be eligible for membership.

(2) A person may leave the Scheme if he wishes but must notify his employer accordingly in writing.

(3) A member who gives such a notification stops being a member from the date the notification specifies.

(4) But, if a date earlier than the notification or no date is specified, he stops being a member at the end of the payment period during which the notification is given.

(5) Where notification is given by a person before he has been a member for three months, he must be treated as not having been a member in that period.