
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

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

PART III

OPTIONAL ADDITIONAL BENEFITS

CHAPTER I

PRELIMINARY

Scope of Part III: limits on benefits

53.—(1) This Part makes provision for benefits to be paid to or in respect of members which are additional to those set out in Part II.

(2) No arrangements may be made under this Part as a result of which –

- (a) the contributions payable by members;
- (b) the years of membership which a member may count; or
- (c) the benefits payable to or in respect of members,

exceed the amounts specified in Schedule 4.

CHAPTER II

INCREASE OF MEMBERSHIP BY EMPLOYING AUTHORITY

Power of employing authority to increase total membership of members leaving employment at or after 50

54.—(1) An employing authority may resolve to increase the total membership of a member who leaves his employment on or after his 50th birthday.

(2) The additional period of membership must not exceed –

- (a) the member's total membership on the date he leaves his employment (“the relevant date”);
- (b) the period by which that period falls short of 40 years;
- (c) the period by which that period would have been increased if he had continued as an active member until he was 65; or
- (d) 6 ²⁴³/₃₆₅ years,

whichever is the shortest.

(3) A resolution under paragraph (1) may only be passed by an employing authority during the period –

- (a) beginning one month before the relevant date; and
- (b) ending 6 months after that date.

(4) If such a resolution is passed before the relevant date it is conditional on the satisfaction on that date of the conditions for its making.

(5) The death of the member after the relevant date does not affect his former employing authority's power under this regulation.

(6) The relevant additional period may only be counted as a period of membership if –

(a) the Committee and the employing authority agree before the expiry of the relevant period that the employing authority will pay increased contributions under regulation 79 to meet the cost of the increase in membership; or

(b) the employing authority makes the payment required by regulation 80(1) by reason of the resolution within that period.

(7) The relevant period is the period of one month beginning –

(a) with the date on which the resolution was passed; or

(b) if by virtue of paragraph (4) the resolution was conditional, with the date on which the member leaves his employment.

(8) If neither paragraph (6)(a) nor (6)(b) applies, the resolution shall cease to have effect.

(9) If a person has been credited with a period of service under regulation 7, or has been paid compensation under regulation 31 of the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001(1) in respect of a cessation of employment, no resolution may be passed under this regulation by reason of that cessation.

(10) If a person becomes entitled on leaving an employment to an ill-health pension under regulation 29 calculated by reference to an enhanced membership period, no resolution may be passed under this regulation by reason of his leaving that employment.

Power of employing authority to increase total membership of new members

55.—(1) An employing authority may resolve to increase a member's total membership.

(2) Such a resolution may only be passed before the expiry of the period of six months beginning with the day on which he becomes a member.

(3) The member must be aged less than 59 when he becomes a member.

(4) The resolution must specify the additional period of membership.

(5) That period must not exceed the maximum addition under Schedule 4.

(6) Where the employing authority has passed a resolution under paragraph (1) the additional period may be counted as part of the member's total membership.

(7) But if when the member leaves his employment with the employing authority no person becomes immediately entitled to payment of a pension in respect of his membership the additional period may not be so counted.

Effect of increases under this Chapter for older members

56.—(1) This regulation applies where a member –

(a) is entitled under this Chapter to count an additional period as a period of membership; and

(b) was aged at least 45 on the first day of the earliest period of local government employment he is entitled to count as membership.

(2) Where this regulation applies the retirement pension –

(a) to which the member would otherwise be entitled under regulation 26; or

(1) S.R. 2001 No. 279

(b) to which he would otherwise be entitled under regulation 33 (before applying any reduction under paragraph (4) of that regulation),
is increased by multiplying his final pay by the length in years of the additional period and dividing the resulting amount by 240.

(3) The additional period does not count in the calculation of the standard retirement grant.

CHAPTER III

MEMBERS' OPTIONS TO INCREASE PENSIONS

Purchase of added years

Payments to increase total membership

57.—(1) An active member may elect to make additional contributions to the Scheme to increase his total membership by an additional period.

(2) That period must not exceed the maximum addition under Schedule 4.

(3) The election must be made by giving notice in writing to the Committee earlier than the member's 64th birthday.

(4) If –

(a) the Committee passes a resolution requiring a member to satisfy it that he is in good health by producing to it a report at his own expense provided by an independent registered medical practitioner approved by the Committee; and

(b) it is not so satisfied,

the election is void.

(5) The amounts of the additional contributions must be such percentage of the member's pay for the time being as is shown as appropriate in guidance issued by the Government Actuary.

(6) A member's pay for the time being is the pay received by him for the interval at the end of which the additional contribution falls to be paid.

(7) Where a member is away from work (otherwise than because of illness or injury) with reduced or no pay, for paragraph (6) he is treated as having received the pay he would have received if he had not been away (unless his contract of employment has ceased).

(8) For paragraph (6) any reduction in pay by reason of the actual or assumed enjoyment of any statutory entitlement during any period in which the member is away from work (other than a period of maternity absence) shall be disregarded.

(9) If a member continues paying the additional contributions until –

(a) his normal retirement date,

(b) or if earlier his last birthday before the date after his 60th birthday when the sum of the items referred to in sub-paragraphs (a) to (c) of regulation 33(4) is 85 years or more,

the whole of the additional period may be counted as part of his total membership.

(10) Otherwise, the part of that period which may be so counted must be calculated as specified in regulation 84 (discontinuance of additional contributions).

(11) The additional contributions are payable from the member's next birthday after his election.

Part-time employees

58.—(1) If a person in a part-time employment elects under regulation 57, the periods mentioned in that regulation must be reduced in the proportion his contractual hours bear to the number of contractual hours of a single comparable whole-time employment.

(2) But the amounts of his additional contributions must be calculated as a percentage of his actual pay (subject to paragraphs (7) and (8) of regulation 57).

(3) Where any person has made such an election, if –

- (a) his employment ceases to be part-time and becomes whole-time employment;
- (b) his employment ceases to be whole-time and becomes part-time employment; or
- (c) his contractual hours in the part-time employment alter,

his additional contributions continue to be payable at the same percentage of his pay, but the additional period counted by reason of contributions paid after the change must be calculated as if the change had occurred immediately before the election.

(4) Paragraphs (1) to (3) do not apply to old elections.

(5) But the member may elect for paragraph (2) to apply to an old election and, if he does so, the additional period counted by reason of contributions paid after that election must be calculated as if paragraphs (1) to (3) had always applied as respects his old election.

(6) A member's election under paragraph (5) must be made by giving notice in writing to the Committee not later than one year before his normal retirement date.

(7) Old elections are elections made before 1st August 2000.

Effect of increases under this Chapter for older members

59. Regulation 56 applies as respects additional periods counted under the previous provisions of this Chapter as it applies as respects additional periods counted under Chapter II.

Conversion between lump sums and pensions

Election for pension in lieu of retirement grant

60.—(1) Where a member, or a deferred member immediately before the commencement date, has become entitled to the immediate payment of a pension under Part II or Part D of the 2000 Regulations as the case may be, he may make an election under this regulation for the whole or part of the retirement grant or, in the case where the entitlement to pension is under regulation 29 or regulation D7 of the 2000 Regulations, of the ill-health retirement grant to be used instead by the Scheme to provide pension for him.

(2) The election must be made by notice in writing to the Committee given not more than three months before the date on which the member becomes so entitled.

(3) The election must specify the amount of the grant which the member wishes to be used for the provision of pension.

(4) Where a member makes such an election, he becomes entitled to such additional pension as is shown as appropriate in guidance issued by the Government Actuary.

(5) The additional pension is payable immediately.

(6) Where a member makes such an election, for these Regulations the amount of his pension includes the amount of any additional pension payable under this regulation.

(7) No person who has elected under regulation 61 may also elect under this regulation.

Election for lump sum in lieu of pension

61.—(1) Where –

- (a) a Class C member, including a deferred member immediately before the commencement date, has become entitled to the immediate payment of a pension under Part II or Part D of the 2000 Regulations as the case may be; and
- (b) the retirement grant to which he is entitled (apart from any election made under this regulation) is less than his permitted maximum,

he may make an election under this regulation for that grant to be increased to his permitted maximum.

(2) The election must be made by notice in writing to the Committee given not more than three months before the date on which the member retires or a deferred member's pension comes into payment.

(3) Where a member or a deferred member elects under this regulation –

- (a) the retirement grant to which he is entitled is increased in accordance with the election; and
- (b) the retirement pension to which he is entitled and any other benefits payable to or in respect of him are to be calculated by reference to such reduced period of membership as appears to the Committee to be appropriate by virtue of that increase.

(4) That reduced period must be calculated by the Committee on the advice of an actuary appointed by it.

(5) A member's or a deferred member's permitted maximum for this regulation is the maximum lump sum to which he is entitled in accordance with Schedule 4 and (so far as relevant) any restrictions imposed under –

- (a) section 8C of the Pension Schemes (Northern Ireland) Act 1993⁽²⁾ (transfer, commutation etc.);
 - (b) section 15 of that Act (discharge of liability);
 - (c) section 17 of that Act (commutation, surrender and forfeiture);
 - (d) section 73 of that Act (assignment, surrender and commutation of benefit).
- (6) No person who has elected under regulation 60 may also elect under this regulation.

CHAPTER IV

ADDITIONAL VOLUNTARY CONTRIBUTIONS

Members only AVC schemes

Elections to pay AVCs

62.—(1) An active member may elect to pay contributions under this regulation ("AVCs") in addition to any other contributions he may pay under this Part.

(2) The election must specify the percentage of his remuneration he wishes to pay or the amount he wishes to pay on his usual pay days.

(3) It must also specify whether he wishes any of his AVCs to be used to provide benefits payable on his death ("death benefits").

(4) If he does, he must specify the proportion to be so used.

(5) The Committee may require the amount of the AVCs to be at least the specified minimum.

(2) 1993 c. 49 Section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

(6) The Committee may not do so after AVCs are first paid under the election.

(7) The specified minimum is the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations (Northern Ireland) 1987(3).

(8) A member may elect to vary the amount of his AVCs or the proportion of them to be used to provide death benefits.

(9) A member may elect to stop paying AVCs.

(10) An election under this regulation must be made by notice in writing to the Committee.

(11) An active member may elect to transfer into his additional voluntary contributions scheme constituted under this Chapter the accumulated value of any other additional voluntary contributions scheme to which he has subscribed.

Payment of AVCs

63.—(1) AVCs must normally be payable by an active member on his usual pay day.

(2) No contributions may be paid to cover any period during which the person contributing is not an active member.

(3) A person may not pay AVCs after he leaves his employment with the employer who was his employing authority when he elected under regulation 62(1) to pay them.

(4) But he may do so if his last usual pay day with that employer falls after that time (or if he makes a fresh election in relation to another employment).

Functions of employing authorities

64.—(1) An employing authority must send any notice of election to pay or to cease paying AVCs to the Committee as soon as possible.

(2) The employing authority must make the arrangements necessary so as to enable a member to begin paying AVCs before the expiry of the period of two months (or such longer period as the Committee may allow) beginning with the date he elects to pay them.

(3) The employing authority must make the arrangements necessary to enable a member who has elected to vary his AVCs or to stop paying them to do so before the expiry of the period of two months (or such longer period as the Committee may allow) beginning with the date he so elects.

Death benefits

65.—(1) If a member elects for any of his AVCs to be used to provide death benefits, the Committee must make arrangements for those benefits to be provided under a pension policy with an AVC insurer.

(2) The policy must provide for the Committee to pay the AVC insurer the same amounts as the AVCs to be so used within one month after the member's usual pay day.

(3) The policy must reflect the restrictions on AVCs and the provisions which apply under these Regulations.

(4) In entering into the pension policy the Committee must give effect to the member's wishes about the benefits it provides, so far as is practicable.

Retirement benefits

66.—(1) The Committee must invest any AVCs which are not to be used to provide death benefits with an approved AVC body.

(2) Subject to regulations 67 and 68, when a member who has paid AVCs during his employment leaves his employment with the employer who was his employing authority when he elected under regulation 62(1) to pay them, the Committee must use the accumulated value of the contributions invested under paragraph (1) for the provision of additional pension benefits under a pension policy at any time prior to the 75th birthday of the member.

(3) But if the member dies before the policy is entered into, the accumulated value is payable to his personal representatives.

(4) In entering into the pension policy the Committee must give effect to the member's wishes about the benefits it provides, so far as is practicable.

(5) The benefits must be money purchase benefits and their value reasonable considering the accumulated value.

(6) The AVCs may only be used to provide benefits in the form of a lump sum if –

- (a) all the pension benefits payable to or in respect of the member under the Scheme are being commuted under regulation 51 (commutation of small pensions); and
- (b) the annual rate referred to in that regulation is not exceeded by aggregating with them the additional pension benefits provided by the pension policy entered into under paragraph (2).

Changes of employment in which membership is continued

67.—(1) If a member who is paying AVCs leaves his employment with the employer who was his employing authority when he elected under regulation 62(1) to pay them and enters a new employment in which he is also a member, he may elect that that election should continue to have effect.

(2) But he may only do so if he enters the new employment before the expiry of the period of one month and one day beginning with the date he left the former employment.

(3) The election must be made by notice given in writing to the member's new employing authority before the expiry of the period of one month beginning with the date the new employment begins (or such longer period as that authority may allow).

(4) The new employing authority must send the notice of election to the Committee in relation to the new employment.

(5) The member may continue paying AVCs under his existing election with effect from his next pay day in his new employment after his election to continue.

(6) But he may not pay any AVCs to cover any period falling between the employments.

(7) Regulation 66(2), this regulation and regulation 68 apply to changes in the new employment as if the election under regulation 62(1) had been given in that employment (and so on).

Elections as to use of accumulated value of AVCs

68.—(1) Subject to paragraph (8), this regulation applies where a person –

- (a) leaves his employment with the employer who was his employing authority when he made an election under regulation 62(1) or (11) without entitlement to the immediate payment of retirement benefits;
- (b) stops being an active member without leaving that employment;

- (c) leaves his employment with the employer who was his employing authority when he made an election under regulation 62(1) or (11) with entitlement to the immediate payment of retirement benefits –
- (i) under regulation 26 (normal retirement) or 28 (redundancy etc); or
 - (ii) by virtue of an election under regulation 33 (early payment); or
- (d) becomes entitled to an ill-health pension under regulation 29.
- (2) Subject to paragraph (7), a person must elect to have the accumulated value used –
- (a) where paragraph (1)(a) applies to him, in one or more of the permissible ways; and
 - (b) where paragraph (1)(b) applies to him, in the way mentioned in paragraph (3)(b).
- (3) The permissible ways are –
- (a) to subscribe to an occupational pension scheme (other than the Scheme);
 - (b) to subscribe to a personal pension scheme (including an additional voluntary contributions scheme, other than an FSAVC scheme);
 - (c) to subscribe to a self-employed pension arrangement;
 - (d) to purchase an appropriate policy from one or more AVC insurers.
- (4) Where paragraph (1)(c) or (d) applies to a person, he may elect for the accumulated value to be used to provide additional pension for him under the Scheme, or partly to provide such pension for him.
- (5) Where a member makes an election under paragraph (4), he becomes entitled to such additional pension as is shown as appropriate in guidance issued by the Government Actuary.
- (6) The accumulated value may not be used to provide an additional lump sum benefit to the member unless it arises out of contributions made under any voluntary contributions scheme where the payments began before 8th April 1987.
- (7) Where a person who has stopped being employed by an employing authority or being a member receives –
- (a) an ill-health grant under regulation 29(2);
 - (b) a repayment of contributions under regulation 88; or
 - (c) a payment under regulation 89(2),
- he must immediately be paid the accumulated value.
- (8) A person who made an election under regulation C24(1) of the 2000 Regulations prior to the commencement date shall continue to have the rights to make elections as to the use of the accumulated value as under the provisions of those Regulations as in operation prior to that date and accordingly, so far as is necessary to give effect to those rights and to make provision for any matters incidental to them, those provisions shall be treated as if they had continued in effect.
- (9) In this regulation, “the accumulated value” means the accumulated value of the additional contributions invested under regulation 66(1).

Shared cost schemes (SCAVCs)

Establishment of shared cost AVC schemes (SCAVCs)

69.—(1) An employing authority may resolve to establish and maintain arrangements under this Chapter for the purpose of enabling contributions (“SCAVCs”) to be paid by and for active members under this regulation, in addition to the others which may be paid under this Part.

(2) The resolution must specify whether all active members in employment under the Scheme with the employing authority are eligible to take part in the arrangements and, if not, the conditions for eligibility.

(3) It must also specify whether SCAVCs may be used to provide benefits payable on the death of active members (“death benefits”).

(4) If they may, it must specify whether the whole or a proportion is to be so used, and, if a proportion, specify it.

(5) It must also specify the amount of the contributions which the authority will pay under the arrangements for members who are themselves paying contributions under them.

Applications to pay SCAVCs

70.—(1) If an active member whose employing authority has established arrangements for SCAVCs under regulation 69 wishes to pay SCAVCs he must apply to it in writing.

(2) The employing authority must notify the member in writing before the expiry of the period of three months beginning with its receipt of his application whether it has accepted or rejected it.

(3) A notification of acceptance must specify the percentage of the member’s pay which the employing authority will pay in contributions under the arrangements.

(4) It must also specify whether any and, if so, what proportion of the contributions is to be used to provide death benefits and the nature of any such benefits.

(5) A member may elect to stop paying SCAVCs.

(6) The election must be made by notice in writing to his employing authority.

Functions of employing authority

71.—(1) Where an employing authority accepts an application under regulation 70 it must send a copy of the notification of acceptance to the Committee.

(2) The employing authority must make the arrangements necessary to enable a member whose application to pay SCAVCs has been accepted to begin paying them before the expiry of the period of two months (or such longer period as the Committee may allow) beginning with the date he applies to pay them.

(3) The employing authority must make the arrangements necessary to enable a member who has elected to stop paying SCAVCs to do so before the expiry of the period of two months (or such longer period as the Committee may allow) beginning with the date he so elects.

Application and investment of SCAVCs

72.—(1) Where the arrangements established by an employing authority provide for any of the SCAVCs to be used to provide death benefits, the Committee must make such arrangements for the provision of those benefits as are specified in regulation 65(1).

(2) The Committee must invest any SCAVCs which are not to be used to provide death benefits with an approved AVC body.

(3) Regulations 65(2) to (4) and 66(2) to (6) apply as respects SCAVCs as they apply as respects AVCs.

Changes of employment in which membership is continued

73.—(1) If a member who is paying SCAVCs leaves his employment and enters a new employment in which he is also a member, he may elect to have the accumulated value of the invested

additional contributions specified in regulation 66(2) (as it applies by virtue of regulation 72(3)) used –

- (a) to make a contribution to the arrangements the new employing authority has made under this Chapter for AVCs; or
- (b) if –
 - (i) his new employing authority has established arrangements under this Chapter for the payment of SCAVCs, and
 - (ii) he has made an application to contribute under those arrangements which has been accepted,to make a contribution to the new employer’s SCAVCs arrangements.

(2) Such an election must be made by notice in writing to the member’s new employing authority and may only be made if the member enters the new employment before the expiry of the period of one month and one day beginning with the date he left the former employment.

(3) The new employing authority must send a copy of any election under this regulation to the Committee.

(4) Where an election is made under paragraph (1)(a), it must specify –

- (a) whether the member wishes the election to be treated as an election under regulation 62(1) in respect of the member’s new employment; and
- (b) if he does, the matters which require to be specified in such an election.

(5) Where the election is made under paragraph (1)(a), the Committee must apply and invest the sum received as mentioned in regulation 66, together with any additional contributions falling to be so invested under that regulation by virtue of contributions made in respect of the new employment by virtue of any election which is treated as made under paragraph (4).

Termination

74.—(1) Where a member who is paying SCAVCs –

- (a) leaves his employment and does not enter new employment in which he is an active member; or
- (b) stops being an active member without leaving that employment,

regulation 68 applies as respects the elections he must or may make for the use of the accumulated value of the invested additional contributions specified in regulation 66(2) (as it applies by virtue of regulation 72(3)) as it would apply to a person in his circumstances as respects the accumulated value mentioned in regulation 68.

(2) Where neither paragraph (1)(a) nor (b) applies and an employing authority or a member stops paying SCAVCs (otherwise than by reason of the member having left his employment and entered new employment in which he is a member), the employing authority must give notice to the Committee.