
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 33

Local Government Pension Scheme (Administration)
Regulations (Northern Ireland) 2009

[^{F1}PART 5

PAYMENT OF BENEFITS, ETC.

Textual Amendments

- F1** Regulations revoked (except reg. 4 for specified purposes, reg. 6 for specified purposes and reg. 11) (1.4.2015) by [The Local Government Pension Scheme \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/189\)](#), regs. 1(1), 2(1), [Sch. 2](#) (with regs. 3, 13, 14(1) (d), Sch. 5)

Pension increases under the Pension Schemes (Northern Ireland) Act 1993

43. Any increase in a pension required by reason of Chapter 3 of Part 4 of the 1993 Act⁽¹⁾ (protection of increases in guaranteed minimum pensions: anti-franking) must be paid from the fund or an admission agreement fund.

Commencement Information

- II** [Reg. 43](#) in operation at 1.4.2009, see [reg. 1](#)

Contributions equivalent premiums

44.—(1) Where an employing authority pays a contributions equivalent premium under section 51 of the 1993 Act in respect of any member, it is entitled to recover, or where the employer is the Committee, retain from the fund or admission agreement fund a sum not exceeding the premium.

(2) But if the employing authority may recover or retain any sum under section 57 of that Act in respect of the premium, then only the balance may be recovered or retained under paragraph (1).

(3) Where the contributions equivalent premium is refunded under regulation 54(1)(c) (re-entry into employment which is contracted out by reference to the same scheme) of the Occupational Pension Schemes (Contracting out) Regulations (Northern Ireland) 1996⁽²⁾, the Committee shall credit to the fund or admission agreement fund a sum equal to the amount of the premium.

(1) 1993 c. 49.

(2) 1996 No. 493.

*Status: Point in time view as at 18/11/2019.**Changes to legislation: There are currently no known outstanding effects for the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009, PART 5. (See end of Document for details)***Commencement Information****I2** [Reg. 44](#) in operation at 1.4.2009, see [reg. 1](#)**Commencement of pensions**

45.—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable begins with the day after the date on which his employment ends.

(2) In the case of a member who leaves local government employment and is not entitled to immediate payment of a retirement pension under any of regulations 16 (normal retirement) to 20 (early leavers: ill-health) of the Benefits Regulations and does not make a choice under regulation 30 (choice of early payment of pension) of those Regulations, the first period for which any retirement pension is payable begins, unless he asks by notice in writing to the Committee to defer payment, with his 65th birthday (but any such deferral shall not extend beyond the day before his 75th birthday).

(3) The first period for which any retirement pension under regulation 30 (choice of early payment of pension) of the Benefits Regulations is payable begins with the day on which the member chooses under paragraph (1) of that regulation.

(4) The first period for which any retirement pension under regulation 31 (early payment of pension: ill-health) of the Benefits Regulations is payable begins on the date when the member became permanently incapable as determined under that regulation.

(5) The first period for which any survivor's benefits are payable under regulation 24 (survivor benefits: active members), 27 (children's pensions), 33 (survivor benefits: deferred members), 34 (children's pensions: deferred members), 36 (survivor benefits: pensioners) or 37 (children's pensions: pensioner members) of the Benefits Regulations on the death of a member begins with the day after the date on which he dies.

(6) A person who is entitled to a retirement pension under regulation 16 (normal retirement) or 17 (retirement after normal retirement age) of the Benefits Regulations may choose to defer payment until a date no later than the day before his 75th birthday.

(7) He must notify the Committee in writing of his choice of date and such notice must be given not less than 3 months before the beginning of the first period for which the benefit would otherwise be payable.

(8) A person may by notice in writing to the Committee alter the date specified in a notice referred to in paragraph (7) or any such subsequent notice under this paragraph but any such subsequent notice must be given not less than 3 months before the date specified in the preceding notice in order for the change of payment date to take effect.

Commencement Information**I3** [Reg. 45](#) in operation at 1.4.2009, see [reg. 1](#)**[F2]Guaranteed minimum pensions**

45A.—(1) Where a member's local government employment is contracted-out employment and he has a guaranteed minimum, the member is entitled from the date he attains pension age to payment of a pension at a weekly rate equal to not less than that guaranteed minimum.

(2) But if the member attains pensionable age while in local government employment, the member is not so entitled until he leaves that employment unless paragraph (3) or (4) applies.

(3) If the member—

- (a) continues in local government employment for a further period of 5 years after attaining pensionable age; and
- (b) does not then leave that employment,

the member is entitled from the end of the period mentioned in sub-paragraph (a) to payment of so much of his retirement pension as equals that guaranteed minimum.

(4) If the member attains pensionable age while in local government employment but subsequently changes employment to employment which is not local government employment the member is entitled.

(5) If the member changes employment to employment which is not local government employment and the member attains pensionable age while in that employment, the member is entitled.

(6) Subject to regulation 17 (retirement after normal retirement age) of the Benefits Regulations, where paragraph (3), (4) or (5) applies the member may consent to a postponement of entitlement for any period during which the member remains in employment beyond pensionable age.

(7) For the purposes of this regulation, a person has a guaranteed minimum if they have such a minimum under section 10 (earner's guaranteed minimum) of the 1993 Act in relation to benefits under these Regulations or the Benefits Regulations and references to entitlement are to entitlement to payment of a pension in accordance with paragraph (1).

(8) In this regulation—

- (a) “contract-out employment” shall be construed in accordance with section 4 of the 1993 Act; and
- (b) “pensionable age” shall be construed in accordance with section 176 of that Act.

Textual Amendments

F2 Regs. 45A, 45B inserted (with effect in accordance with reg. 1(4) of the amending Rule) by Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2010 (S.R. 2010/410), regs. 1(1), 40

Survivor benefits: guaranteed minimum pension

45B.—(1) Where the guaranteed minimum pension rule applies, the pension to which a person is entitled under regulations 24 (survivor benefits: active members), 33 (survivor benefits: deferred members) and 36 (survivor benefits: pensioner members) of the Benefits Regulations must be no less than the surviving spouse's, ^{F3}... cohabiting partner's or civil partner's guaranteed minimum.

(2) The guaranteed minimum pension rule applies if—

- (a) the employment in which the deceased was a member was contracted-out employment; and
- (b) he had a guaranteed minimum in relation to benefits under these Regulations.

(3) Paragraph (1) overrides any contrary provision in the Benefits Regulations or these Regulations except—

- (a) regulation 39 (commutation of small pensions) of the Benefits Regulations;

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- (b) regulation 68 (forfeiture of pension rights after conviction of employment related offences) of these Regulations; and
- (c) regulation 69 (interim payments directions) of these Regulations.]

Textual Amendments

- F2** Regs. 45A, 45B inserted (with effect in accordance with reg. 1(4) of the amending Rule) by [Local Government Pension Scheme \(Amendment No. 2\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/410\)](#), regs. 1(1), **40**
- F3** Word in reg. 45B(1) omitted (with effect in accordance with reg. 1(2)(a) of the amending Rule) by virtue of [The Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/206\)](#), regs. 1(1), **11**

[^{F4}Joint liability in respect of annual allowance charge

45C.—(1) This regulation applies where a member gives the Committee notice of joint and several liability under section 237B (liability of scheme administrator) of the Finance Act 2004 in respect of the member’s annual allowance charge.

(2) Where the joint liability amount specified in the notice is met by the fund, the Committee shall reduce the value of the member’s rights accrued under the Scheme and the former Regulations (if applicable), in accordance with guidance issued by the Government Actuary.

(3) In this regulation—

- (a) “annual allowance charge” has the meaning given to that expression by section 227 of the Finance Act 2004; and
- (b) “the joint liability amount” has the meaning given to that expression by section 237B(3) of the Finance Act 2004.]

Textual Amendments

- F4** [Reg. 45C](#) inserted (with effect in accordance with reg. 1(2)(c) of the amending Rule) by [Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/71\)](#), regs. 1(1), **20**

Interest on late payment of certain benefits

46.—(1) Where all or part of a pension or lump sum payment due under these Regulations, the Benefits Regulations or the former Regulations is not paid within the relevant period after the due date, the Committee must pay interest on the unpaid amount to the person to whom it is payable, calculated from the due date as provided in regulation [39\(4\)](#) (interest).

(2) The relevant period is—

- (a) in the case of a pension under regulation 24(1) (survivor benefits: active members), 27(1) (children’s pension), 33(1) (survivor benefits: deferred members) or 36(1) (survivor benefits: pensioner) of the Benefits Regulations, the period ending one month after the date on which the Committee receives notification of the member’s death;
- (b) in the case of any other pension, one year; and
- (c) otherwise, one month.

(3) The due date is—

- (a) in the case of a pension, the date on which it becomes payable;

- (b) in the case of a lump sum under the Transitional Regulations and regulation 21 (election for a lump sum in lieu of pension) of the Benefits Regulations, the benefit crystallisation event date;
- (c) in the case of a death grant under regulation 23 (death grants: active members), 32 (death grants: deferred members) or 35 (death grants: pensioner members) of the Benefits Regulations, the date on which the member dies or, where notification of death is received more than 2 years after the date of death, the date of notification; and
- (d) in the case of a payment of a lump sum under regulation 39 (commutation: small pensions) of the Benefits Regulations, the date of the commutation election or, if later, the nominated date (within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the Finance Act 2004)(3).

Commencement Information

I4 [Reg. 46](#) in operation at 1.4.2009, see [reg. 1](#)

Payments due in respect of deceased persons

47.—(1) Paragraph (2) applies if, when a person dies, the total amount due to his personal representatives under the Scheme (including anything due to him at his death) (“the amount due”) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) (Northern Ireland) Act 1967(4) and applying in relation to his death.

(2) The Committee may pay the whole or part of the amount due from the fund or admission agreement fund to—

- (a) his personal representatives; or
- (b) any person or persons appearing to the Committee to be beneficially entitled to the estate,

without the production of probate or letters administration of his estate.

(3) Such a payment discharges the Committee from accounting for the amount paid.

Commencement Information

I5 [Reg. 47](#) in operation at 1.4.2009, see [reg. 1](#)

[^{F5}Payments for persons incapable of managing their affairs

47A.—(1) Where it appears to the Committee that a person other than an eligible child is entitled to the payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing his affairs—

- (a) the Committee may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the Committee may determine, to be applied for the benefit of the person entitled as the Committee may direct; and
- (b) in so far as the Committee does not pay the benefits in that manner, the Committee may apply them in such manner as the Committee may determine, for the benefit of the person entitled or his beneficiaries.

(3) 2004 c. 12.

(4) 1967 c. 5 (N.I.).

Status: Point in time view as at 18/11/2019.

Changes to legislation: There are currently no known outstanding effects for the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009, PART 5. (See end of Document for details)

(2) In this regulation, “eligible child” shall be construed in accordance with regulation 26 (meaning of “eligible child”) of the Benefits Regulations.]

Textual Amendments

F5 [Reg. 47A](#) inserted (1.6.2012) by [Local Government Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/183\)](#), regs. 1(1), **21**

Non-assignability

48.—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for him.

(2) No such benefit is assignable or chargeable with his or any other person’s debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order under Article 283 or 283A of the Insolvency (Northern Ireland) Order 1989**(5)**.]

Commencement Information

16 [Reg. 48](#) in operation at 1.4.2009, see [reg. 1](#)

Status:

Point in time view as at 18/11/2019.

Changes to legislation:

There are currently no known outstanding effects for the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009, PART 5.