STATUTORY RULES OF NORTHERN IRELAND

# 2015 No. 272

# PENSIONS

## The Funded Public Service Pension Schemes (Reduction of Cash Equivalents) Regulations (Northern Ireland) 2015

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| *Made - - - -* | *11th June 2015* |
| *Coming into operation* | *7th July 2015* |

The Department of Finance and Personnel, in exercise of the powers conferred by sections 93B, 177(1), (2), (3) and (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), make the following Regulations.

These Regulations were not subject to consultation because in this case the Department of Finance and Personnel considered consultation to be inexpedient because of urgency.

### Citation and commencement

**1.**—(1) These Regulations may be cited as the Funded Public Service Pension Schemes (Reduction of Cash Equivalents) Regulations (Northern Ireland) 2015 and shall come into operation on 7th July 2015.

### Interpretation

**2.** In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;

"the 1996 Regulations" means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**2**);

"actuary" means –

(a) a Fellow of the Institute and Faculty of Actuaries(**3**); or

(b) a person with other actuarial qualifications who is approved, at the request of the trustees or managers of the scheme in question, by the Secretary of State as being a proper person to act for the purposes of the 1996 Regulations in connection with that scheme;

(**1**) 1993 c. 49. Section 93B was inserted by the Pension Schemes Act 2015 c. 8, section 72(4).
(**2**) S.R. 1996 No. 619 as amended by S.R. 2008 No. 370 regulations 4 and 8 and Schedule 1.
(**3**) The Institute and Faculty of Actuaries can be contacted at 7th floor, Holborn Gate, 326-330 High Holborn, London, WC1V 7PP and at www.actuaries.org.uk.

"cash equivalent" means a cash equivalent mentioned in section 90(1) or (2) (right to cash equivalent) of the 1993 Act(**4**);

"designated" means designated under section 93A(1) (designation of funded public service defined benefits schemes)(**5**), and related expressions are to be construed accordingly;

"discount rate" means the interest rate used to discount future payments of benefit for the purposes of placing a current value on them;

"effective date" means –

(a) in relation to a transfer report, the date as at which the assets and liabilities are valued for the purposes of the transfer report; and

(b) in relation to any other report of an actuarial valuation of the scheme, the date as at which the assets and liabilities are valued for the purposes of the valuation;

"extension of a designation" means the extension of a designation under section 93A(5)(a) (designation of funded public service defined benefits schemes) of the 1993 Act, and related expressions are to be construed accordingly;

"flexible benefit" has the meaning given in section 74 (meaning of "flexible benefit") of the Pension Schemes Act 2015(**6**);

"funded public service defined benefits scheme" has the meaning given by section 93A(9) of the 1993 Act;

"guaranteed minimum pension" has the meaning given by section 4(2) (meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment") of the 1993 Act(**7**);

"initial cash equivalent" means the amount calculated in accordance with paragraphs 4 and 5 of the Schedule;

"the insufficiency percentage" is the percentage referred to in paragraph 1(b) of the Schedule;

"official pension" has the meaning given by section 5(1) and (2) (scope of Act, and general powers to extend and adapt increases) of the Pensions (Increase) Act (Northern Ireland) 1971(**8**);

"payment out of public funds" has the meaning given by section 93A(9) of the 1993 Act;

"percentage P" has the meaning given in regulation 4;

"the relevant Department" has the meaning given by section 93A(9) of the 1993 Act;

"report of an actuarial valuation of the scheme" includes in particular any report of an actuarial valuation of the scheme–

(a) to which article S2 (actuarial valuations) of the Assembly Members Pension Scheme (Northern Ireland) 2012(**9**) applies;

(b) to which Department of Finance and Personnel directions made under section 11 (valuations) of the Public Service Pensions Act (Northern Ireland) 2014(**10**) apply; or

(**4**) Sections 90(1) and (2) were substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 54
(**5**) Section 93(A) was inserted by the Pension Schemes Act 2015 c.8, section 72(3).
(**6**) 2015 c. 8.
(**7**) Section 4(2) was amended by the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433), article 2(1), the National Insurance Contributions Act 2008 (c.16) section 4(1), the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)) section 13 and Schedule 4 paragraph 3 and the Pensions (No.2) Act (Northern Ireland) 2008 (c.13 (N.I.)) section 102 and Schedule 7 paragraph 8.
(**8**) 1971 c.35 (N.I.).
(**9**) See www.niassembly.gov.uk.
(**10**) 2014 c. 2 (N.I.).

(c) to which regulation 68 (actuarial valuations and certificates) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014(**11**) applies;

"scheme", in a case where part and not all of a scheme is or may subsequently be designated, means that part of the scheme, unless the context requires otherwise;

"transfer report" means a report concerning a scheme requested by the trustees or managers and prepared by the actuary in accordance with regulation 2 and the Schedule;

"trustees or managers" means –

(a) in relation to a scheme established under a trust, the trustees; and

(b) in relation to any other scheme, the managers;

"working day" means a day which is not—

(a) Saturday,

(b) Sunday,

(c) Christmas Day,

(d) Good Friday, or

(e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**12**) in the case of a scheme to which section 93A (designation of funded public service defined benefits schemes) of the 1993 Act applies.

(2) Where a scheme has more than one pension fund, each pension fund of the scheme is a part of that scheme for the purpose of these Regulations.

(3) In the application of these Regulations to a pension fund that is or may subsequently be designated–

(a) references to the scheme's assets are to be read as references to the pension fund's assets; and

(b) references to the scheme's liabilities are to be read as references to the pension fund's liabilities.

### Transfer report

**3.**—(1) The trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, may request an actuary to prepare a report (a "transfer report") if they consider that—

(a) there may now or in the future be an increased likelihood of payments out of public funds, or of increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and

(b) the increased likelihood may be connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90 (right to cash equivalent) of the 1993 Act(**13**).

(2) The trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, which is designated or the designation of which is extended, must request an actuary to prepare a report (a "transfer report") unless—

(a) they have already requested a report under paragraph (1) and that report has not been completed; or

(b) they already have a transfer report for the scheme which remains current.

(**11**) S.R. 2014 No.188.
(**12**) 1971 c. 80.
(**13**) Sections 90(1) and (2) were substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 54.

(3) A transfer report for a scheme remains current if—

(a) it still has an effective date which is no earlier than the effective date of the most recent report of an actuarial valuation of the scheme;

(b) the determinations used by the actuary (under paragraph 4(2) of the Schedule) who prepared the report are still the most recent determinations for the scheme as a whole made by the trustees or managers of that scheme under regulation 7A(3) (manner of calculation of initial cash equivalents for salary related benefits) of the 1996 Regulations; and

(c) the assumptions used by the actuary (under paragraph 5(2) of the Schedule) who prepared the report are still the assumptions for the scheme as a whole most recently determined by the trustees or managers of that scheme under regulation 7B (initial cash equivalents for salary related benefits: assumptions and guidance) of the 1996 Regulations.

(4) Where the trustees or managers make a request under paragraph (2), they must make the request within three working days of—

(a) the scheme's being designated or the designation of the scheme being extended, in a case where the trustees or managers are the relevant Department; or

(b) the trustees or managers receiving notice of a designation of the scheme or its extension, in a case where the trustees or managers are not the relevant Department.

(5) Where an actuary has been requested to prepare a transfer report and—

(a) the request was made under paragraph (1), and the scheme is subsequently designated or the designation of the scheme is subsequently extended; or

(b) the request was made under paragraph (2) following a designation or extension of a designation of the scheme,

the actuary must complete the transfer report within two months of the designation or extension.

(6) The Schedule (transfer report) has effect.

**Reduction of cash equivalent**

**4.**—(1) Where, under section 91(1) (ways of taking right to cash equivalent) of the 1993 Act(**14**), a member of a scheme to which this regulation applies requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme, the cash equivalent must be reduced by percentage P, unless paragraph (4) applies.

(2) This regulation applies to a scheme which is a funded public service defined benefits scheme, or part of such a scheme, that is designated on the date of the application under section 91(1) of the 1993 Act.

(3) A cash equivalent may be reduced by percentage P under paragraph (1) only to the extent that it relates to benefits which are not money purchase benefits (within the meaning of the 1993 Act) or injury or compensation benefits (within the meaning of the Public Service Pensions Act (Northern Ireland) 2014(**15**)).

(4) This paragraph applies where a scheme ceases to be designated before the date on which the trustees or managers do what is needed to carry out what the member required by making an application under section 91(1) of the 1993 Act.

(5) Where paragraph (4) applies, no reduction of the member's cash equivalent is to be made under these Regulations.

(**14**) Section 91(1) was substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 55.
(**15**) 2014 c. 2 (N.I.).

(6) The reduction made under this regulation (alone or in conjunction with reductions made under the 1996 Regulations) may produce the result that the amount by which a cash equivalent is to be reduced is such that a member has no right to receive anything.

### Percentage P

**5.** "Percentage P" means—

(a) the insufficiency percentage stated in the most recent transfer report; or

(b) where the relevant Department has specified a percentage under regulation 6, that percentage.

### Specification of amount of reduction by the relevant Department

**6.**—(1) The relevant Department may specify a percentage as percentage P, provided that—

(a) the percentage which the relevant Department specifies is lower than the insufficiency percentage stated in the most recent transfer report;

(b) the actuary who prepared the most recent transfer report has provided written advice regarding whether reducing cash equivalents by a percentage which is lower than the insufficiency percentage stated in the most recent transfer report would be consistent with trying to remove or significantly reduce the likelihood referred to in paragraph (2); and

(c) the relevant Department considers that, having regard in particular to the need to try to remove or significantly reduce the likelihood referred to in paragraph (2), the percentage to be specified is reasonable in all the circumstances.

(2) This paragraph refers to—

(a) the likelihood of payments out of public funds, or increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, where

(b) the likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90 (right to cash equivalent) of the 1993 Act(**16**).

Sealed with the Official Seal of the Department of Finance and Personnel on 11th June 2015.

(L.S.)

*Emer Morelli*
A senior officer of the
Department of Finance and Personnel

(**16**) Sections 90(1) and (2) were substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 55.

## SCHEDULE

Regulation 3

### Transfer Report

1. A transfer report must—

(a) have an effective date which is no earlier than the effective date of the most recent report of an actuarial valuation of the scheme; and

(b) state the percentage by which, as at the effective date of the transfer report, the market value of the scheme's assets was insufficient to cover the transfer report liabilities of all members of the scheme ("the insufficiency percentage").

2. The transfer report liabilities are—

(a) for active members with vested rights, each member's cash equivalent calculated—

(i) in accordance with paragraphs 3 to 6; and

(ii) on the assumption that the member ceases pensionable service under the scheme on the effective date;

(b) for deferred members, each member's cash equivalent calculated in accordance with paragraphs 3 to 6;

(c) for pensioner members, each member's cash equivalent calculated in accordance with paragraphs 3 to 5;

(d) for members over normal pension age for the purpose of the scheme and not in receipt of a pension, each member's cash equivalent calculated—

(i) in accordance with paragraphs 3 to 5; and

(ii) on the assumption that the member's pension comes into payment on the effective date of the report;

(e) for pension credit members, each member's cash equivalent calculated in accordance with paragraphs 3 to 6; and

(f) for members with unvested rights, an amount for each member—

(i) equal to the amount of the member's unvested contributions; and

(ii) calculated on the assumption that the member ceases pensionable service under the scheme on the effective date of the report.

3. Cash equivalents for each member must be calculated by calculating the initial cash equivalent in accordance with paragraphs 4 and 5 and then, except in a case to which paragraph 2(c) or 2(d) applies, making any reduction required by paragraph 6.

4.—(1) The initial cash equivalent must be calculated–

(a) on the basis that the initial cash equivalent is the amount at the effective date of the report which is required to make provision within the scheme for a member's accrued benefits, options and discretionary benefits; and

(b) using the assumptions provided for in paragraph 5.

(2) For the purposes of sub-paragraph (1)(a), the actuary preparing the report must use the most recent determinations for the scheme as a whole made by the trustees or managers of that scheme under regulation 7A(3) (manner of calculation of initial cash equivalents for salary related benefits) of the 1996 Regulations.

5.—(1) Initial cash equivalents must be calculated using the assumptions provided for in this paragraph.

(2) The actuary preparing the report must use the assumptions for the scheme as a whole most recently determined by the trustees or managers of that scheme under regulation 7B (initial cash equivalents for salary related benefits: assumptions and guidance) of the 1996 Regulations.

(3) This sub-paragraph applies to -

(a) a scheme made under Article 9 (superannuation of persons employed in local government service, etc) of the Superannuation (Northern Ireland) Order 1972(**17**), or a part of such a scheme;

(b) a scheme made under section 1 (schemes for persons in public service) of the Public Service Pensions Act Northern Ireland) 2014(**18**), or which has effect as a scheme made under section 1, for the payment of pensions to or in respect of local government workers, or a part of such a scheme; or

(4) In the case of the schemes or parts of schemes to which sub-paragraph (3) applies, the actuary preparing the report must assume that –

(a) the per annum increase of official pensions required by orders to be made under section 69 of the Social Security Pensions (Northern Ireland) Order 1975 (increase of official pensions)(**19**) will be-

$$\left( \left(\frac{1.05}{1.03}-1\right)\times 100 \right)\%$$

(b) the per annum increase of that part of guaranteed minimum pensions which is attributable to earnings factors in the period beginning with the tax year 1988-1989 and ending with the tax year 1996-1997 required by orders to be made under section 105 of the 1993 Act (annual increase of guaranteed minimum pensions)(**20**) will be-

$$\left( \left(\frac{1.05}{1.0325}-1\right)\times 100 \right)\%$$

(c) the discount rate is 5%.

6. The actuary must reduce an initial cash equivalent by the amount of the reduction (if any) which the managers or trustees consider that they would make under paragraph 15 of Schedule 1A (reductions in initial cash equivalents) of the 1996 Regulations were the member to leave the scheme.

(**17**) S.I. 1972/1073 (N.I.10).
(**18**) 2014.c.2 (N.I.).
(**19**) S.I. 1975/1503 (N.I. 15); Art. 69 was amended by S.I. 1976/396 (N.I. 5) Arts. 10(2), 16 and Sch. 3, S.I. 1985/1209 (N.I. 16) Art. 25(2) and Sch. 6, S.I. 1986/1888 (N.I. 18) Arts. 11(8), 19(1)(b), 83(1) and Sch. 9, para. 58, S.I. 1990/1509 (N.I. 13) Arts. 3(7) and 7, by section 4 and paragraph 14(19) of Schedule 2 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (1992 c. 9) and by section 184 of and paragraph 15(1) of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (1993 c. 49). Article 69 is modified by Article 69A, which was inserted by Article 10(3) of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), and amended by S.I. 1986/1888 (N.I. 18) Art. 11(9) and by section 184 of and paragraph 15(2) of Schedule 7 to the Pensions Schemes (Northern Ireland) Act 1993. Art. 69(5ZA) is amended by the Pensions (No.2) Act (NI) 2008 (c.13), section110 and sch. 10 part 5, Arts 69(5ZC) are added by 2008 c. 13 section 110. By virtue of article 69(7) of the Social Security Pensions (Northern Ireland) Order 1975, sections 69 and 69A of that Order have effect as if they were contained in Part 1 of the Pensions (Increase) Act (Northern Ireland) 1971 (c.35(NI)).
(**20**) Section 105 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 55 and the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Scheme) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

A funded public service defined benefits scheme can be designated under section 93A of the Pension Schemes (Northern Ireland) Act 1993 c. 49 ('the 1993 Act') if a relevant Department considers that (a) there is an increased likelihood of payments out of public funds, or of increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and (b) the increased likelihood is connected with the exercise or expected future exercise of rights to take a cash equivalent. When a member requires the trustees or managers of a scheme to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme, and the scheme was already designated on the date that the member makes his or her application under section 91(1) of the 1993 Act, these Regulations require the trustees or managers to reduce the cash equivalent. They also set out how the amount of the reduction is to be determined. The reduction must not however be made if the scheme ceases to be designated before the date on which the trustees or managers do what is needed to carry out what the member requires.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.