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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 189**

**LOCAL GOVERNMENT**

**The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014**

*Made - - - - 30th June 2014*

*Coming into operation 1st April 2015*

The Department of the Environment, makes these Regulations in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972<sup>(1)</sup>, and now vested in it<sup>(2)</sup>.

In accordance with Article 9 of that Order the Department has consulted with the Northern Ireland Local Government Association, 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.

**Citation, commencement, interpretation and retrospection**

1. (1) These Regulations may be cited as The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 and except as provided for in paragraph (2), shall come into operation on 1st April 2015.

(2) Paragraphs 15 and 16 of Schedule 4 shall have effect from 27th March 2014.

(3) Schedule 1 (interpretation) contains definitions of expressions used in these Regulations which apply for their interpretation unless the context indicates a different meaning.

(4) In these Regulations, where an expression is used in relation to provisions in the 2000 Regulations, the 2002 Regulations, the Benefits Regulations, the Administration Regulations, the Transitional Regulations 2009, the 2009 Scheme or the 2014 Regulations, those expressions are to be construed in accordance with the meaning given to those expressions in the provisions referred to, unless the context indicates otherwise.

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(1) [S.I. 1972/1073 \(N.I. 10\)](#); Art. 9 was amended by Art. 34 [S.I. 2005/1968 \(N.I. 18\)](#); Art 14. was amended by Art. 12 [S.I. 1990/1509 \(N.I. 13\)](#).

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

## **Revocation of Regulations**

2. (1) Except where these Regulations provide otherwise, in particular Schedule 5 (transitional and transitory provisions and savings), the Regulations listed in Schedule 2 (regulations revoked) are revoked.

(2) Accordingly, no person may become a member of the 2009 Scheme after 31st March 2015 or accrue benefits under the 2009 Scheme in respect of any service after that date.

## **Membership before 1st April 2015**

3. (1) Notwithstanding the revocations effected by regulation 2 and subject to this regulation, the regulations listed in Schedule 2 continue to have effect so far as is necessary—

(a) so that membership accrued in the earlier Schemes in respect of service before 1st April 2015, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2015, are preserved; and

(b) so that benefits are payable in accordance with these Regulations.

(2) In paragraph 1(a) the expression “pension rights accrued” includes any right to any pension, lump sum, grant or other benefit due to or in respect of a member.

(3) The scheme manager responsible under regulation 2(2) (introductory) of the 2014 Regulations for the local administration of pensions and other benefits payable under those Regulations is also responsible for the administration of benefits pursuant to paragraph (1) of this regulation.

(4) Where a person has been an active member of the Scheme, and retirement benefits under paragraph (1) are payable to a member in accordance with regulation 10 (retirement benefits), the benefits paid from earlier Schemes and the Scheme are, for all purposes, to be regarded as constituting a single pension scheme.

(5) But a retirement pension and any retirement grant payable to a member under paragraph (4) is subject to actuarial adjustment if it would have been subject to actuarial adjustment under the 2009 Scheme, irrespective of whether retirement pension under the Scheme payable at the same time is subject to actuarial adjustment.

(6) Where a member who has not had a disqualifying break aggregates benefits from earlier Schemes with benefits from the Scheme, the benefits from the earlier Schemes are payable as final salary benefits.

(7) A disqualifying break for the purposes of paragraph (6) is a continuous break in active membership of a public service pension scheme of more than five years.

(8) Where a person has not been an active member of the Scheme and has benefits under the earlier Schemes, or has been an active member of the Scheme and has benefits under the earlier Schemes which have not been aggregated with the benefits in the Scheme, the benefits payable as a consequence of paragraph (1) are payable in accordance with the earlier Schemes as applied by this regulation.

(9) Any pensionable pay received or contribution paid by a member on or after 1st April 2015 which relates to work carried out before that date shall be dealt with in accordance with the 2009 Scheme.

(10) Any increase in membership may be awarded to a member under regulation 12(4) (power of employing authority to increase total membership of active members) of the Benefits Regulations after 31st March 2015 if the member’s relevant date for the purposes of that regulation is before 1st April 2015 and that increase is in membership of the 2009 Scheme notwithstanding the fact that the award may occur after 31st March 2015.

(11) Where an employing authority grants an increase in membership under regulation 12A(3) (duty of employing authority to increase total membership: enhanced protection) of the Benefits Regulations following a notice served by a member before 6th April 2010, that increase shall be an increase in membership of the 2009 Scheme notwithstanding the fact that the grant may occur after 31st March 2015.

(12) Any guidance issued by the Government Actuary in accordance with any provision in the former regulations is to be treated as actuarial guidance issued by the Department as defined in Schedule 1 to the 2014 Regulations and any reference to guidance issued by the Government Actuary in the former regulations is to be construed as a reference to actuarial guidance issued by the Department.

(13) Regulations 67 and 68 (abatement) of the Administration Regulations continue to have effect in relation to pensions in payment deriving from the earlier Schemes regardless of when payment of those pensions commenced.

(14) In these Regulations, where final pay is to be calculated in accordance with regulation 8 to 11 (calculation of final pay) of the Benefits Regulations if a certificate has been issued under regulation 24 (permanent reductions in pay: certificates of protection of pension benefits) of the 2002 Regulations, that certificate continues to have effect as if regulation 24 were still in operation.

#### **Statutory underpin**

4. (1) This regulation applies to a person who—
- (a) was an active member of the 2009 Scheme on the 31st March 2012 and who, on 1st April 2012, was 10 years or less from the normal retirement age applicable to that member under the 2009 Scheme;
  - (b) was an active member immediately before the underpin date and who receives payment of benefits under the Scheme on or after the underpin date;
  - (c) does not have a disqualifying break in service;
  - (d) has not, prior to the underpin date, drawn benefits under the 2014 Regulations in relation to that employment; and
  - (e) is not a councillor member.
- (2) The underpin date for the purposes of this regulation is the earlier of—
- (a) the date the member—
    - (i) attained the normal retirement age applicable to that member under the 2009 Scheme; or
    - (ii) died in service;
  - (b) the date the member ceased to be an active member on the Scheme with an immediate entitlement to a pension, including a member who may elect to receive immediate payment of a pension under regulation 30(5) (early retirement) of the 2014 Regulations and a member who with the employing authority's consent, elects to receive immediate payment under regulation 30(6) (flexible retirement) of 2014 Regulations.
- (3) A disqualifying break in service for the purposes of paragraph (1)(c) is a continuous break, after 31st March 2012 of more than five years in active membership of a public service pension scheme.
- (4) The active member's pension account is to be increased at the underpin date by the amount by which the underpin amount exceeds the assumed benefits on the underpin date.

(5) The assumed benefits are calculated by assessing the benefits the member would have been entitled to under the Scheme if—

- (a) the member had paid contributions under regulation 11 (contributions) of the 2014 Regulations from 1st April 2015 to the underpin date, but excluding—
  - (i) any period when the member was not an active member;
  - (ii) any period of absence from work with no pensionable pay in consequence of a trade dispute which the member has not covered by additional pension under regulation 18 (additional pension) of the 2014 Regulations; and
  - (iii) any period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave which the member has not covered by additional pension under regulation 18 (additional pension) of the 2014 Regulations;
- (b) the member had in the period between 1st April 2015 and the underpin date paid no additional contributions under—
  - (i) regulation 18 (additional pension contributions) of the 2014 Regulations, other than additional contributions paid under that regulation to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave; or
  - (ii) regulation 19 (additional voluntary contributions) of the 2014 Regulations;
- (c) the member has not been awarded additional annual pension under regulation 32 (award of additional pension) of the 2014 Regulations during that period;
- (d) the Scheme had received no transfer value payment in respect of the member relating to rights accrued under a registered pension scheme or European Pensions Institution;
- (e) the revaluation adjustment<sup>(4)</sup> made to the active member's account had been made up to and including the beginning of the Scheme year in which the member's underpin date fell; and
- (f) the balance in the active member's pension at the member's underpin date had been adjusted on account of any pension debit or Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

(6) The underpin amount is calculated by assessing the benefits the member would have been entitled to under the 2009 Scheme if—

- (a) the member had continued to accrue membership under the 2009 Scheme rather than benefits in the Scheme from 1st April 2015 to the underpin date;
- (b) the period of membership taken into account for the purposes of sub-paragraph (a) were—
  - (i) the period during which the member has paid, or is treated as having paid contributions under regulations 11 (contributions) and 12 (temporary reduction in contributions) of the 2014 Regulations;
  - (ii) any period of unpaid absence due to industrial action, or absence from work with permission otherwise than because of illness or injury, child-related leave or reserve forces service leave, if that period was covered by additional pension purchased under regulation 18 (additional pension contributions) of the 2014 Regulations; and

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(4) S.R. 2014 No. 188; Revaluation adjustment is defined in Schedule 1 (interpretation) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014.

- (iii) where the member's assumed benefits include an adjustment under regulation 39 (calculation of ill-health pension amounts) of the 2014 Regulations, any additional period of membership that would have been added to the member's total membership under regulation 20 (early leavers: ill-health) of the Benefits Regulations had that regulation applied at the underpin date;
- (c) the final pay was calculated in accordance with regulations 8 to 11 (calculation of final pay) of the Benefits Regulations, as if those Regulations were still in force at the underpin date; and
- (d) the member's benefits at the member's underpin date had been adjusted on account of any pension debit or a Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

### **Membership of the Scheme**

5. (1) A person who is an active member of the 2009 Scheme in an employment immediately before 1st April 2015 becomes an active member of the Scheme on 1st April 2015 in that employment provided the person is eligible for membership of the Scheme on that date.

(2) Paragraph (1) does not apply to a person who ceases to be an active member on 31st March 2015 by virtue of regulation 10 (ending of membership) of the Administration Regulations and these Regulations apply to any such person as if that person is not an active member immediately before 1st April 2015.

(3) Notwithstanding regulation 3(2) (active membership) of the 2014 Regulations, a person who is eligible to be an active member of the 2009 Scheme immediately before 1st April 2015 who is not a member of 2009 Scheme, does not become a member of the Scheme on 1st April 2015 unless that date is an automatic enrolment date for that member.

(4) If any person has notified an employer under regulation 10(2) (ending of membership) of the Administration Regulations before 1st April 2015 of a wish to leave the 2009 Scheme, but would not (apart from this paragraph) have ceased to be an active member immediately before 1st April 2015—

- (a) paragraph (1) does not apply to that person;
- (b) the person's active membership ceases on 31st March 2015; and
- (c) these Regulations apply to that person as if that person is not an active member immediately before 1st April 2015.

(5) A person who was a deferred member of one of the earlier Schemes whose benefits under those Schemes have not come into payment and who becomes an active member of the Scheme by virtue of regulation 3(1) (active membership) of the 2014 Regulations without a disqualifying break, may choose, by notice in writing to the Committee within 12 months of becoming a member of the Scheme, to be treated as if he or she had become an active member of the Scheme by virtue of paragraph (1).

(6) A disqualifying break for the purposes of paragraph (5) is a continuous break of more than five years in active membership of a public service pension scheme.

(7) A designation by an employing authority of an employee or class of employees as being eligible for membership of the 2009 Scheme pursuant to regulations 3 (general eligibility for membership) and 6 (admission agreements – further provisions) of the Administration Regulations has effect as a designation as being eligible for membership of the Scheme.

### **Admission agreements**

6. (1) Any admission agreement entered into before 1st April 2015 continues to have effect after 31st March 2015 and employees of admission bodies designated before that date in accordance with

an admission agreement as eligible for membership of the Local Government Pension Scheme are from 1st April 2015, subject to regulation 5(2) to (4) (membership of the Scheme), members of the Scheme by virtue of the agreement.

(2) Any indemnity, bond or guarantee provided in respect of an admission agreement entered into before 1st April 2015 has effect in relation to any liabilities whether incurred up to and including 1st April 2015 or after that date.

(3) Any condition imposed before 1st April 2015 by the Department on an approval for the admission of a body to the earlier Schemes continues to have effect and withdrawal of the approval by the Department where the condition is not met has effect as if approval for admission to the Scheme had been withdrawn.

(4) These Regulations and the 2014 Regulations apply to employment with an admission body in which the employee is an active member in the same way as if the admission body were an employing authority.

### **Qualifying service for the Scheme**

7. (1) Any period of active membership in the earlier Schemes which the member has at 31st March 2015 counts as qualifying service in the Scheme for the purposes regulation 3(5)(a) and 3(5)(c) (active membership) of the 2014 Regulations.

(2) Any transfer value payment accepted into the earlier Schemes counts as a transfer value payment into the Scheme for the purposes of regulation 3(5)(b), 3(5)(c) and 3(5)(d) of the 2014 Regulations.

(3) A transfer value payment made under the earlier Schemes to a qualifying recognised overseas pension scheme counts as qualifying service in the Scheme for the purposes of regulation 3(5)(g) of the 2014 Regulations.

(4) A member of the Scheme who has a deferred benefit or a pension in payment under the earlier Schemes is treated as having qualifying service for a period of 2 years for the purposes of regulation 3(5) of the 2014 Regulations, but if a deferred benefit—

- (a) is in respect of less than 2 year's membership; and
- (b) is aggregated with any of the Scheme benefits,

and the aggregate of that membership and the service in the Scheme is less than 2 years, the member may, upon ceasing to be an active member, elect instead of having a deferred benefit under the Scheme, to have regulation 20 (rights to return of contributions) of the 2014 Regulations deemed to apply to all the contributions made by the member.

(5) A person who became a member of the Scheme by virtue of regulation 5(1) (membership of the Scheme), and who has at least 3 months qualifying service in the Scheme (which expression includes for this purpose any of the period of active membership in the earlier Schemes if aggregated with membership of the Scheme), who ceases to be an active member of the Scheme before achieving qualifying service for a period of 2 years may elect—

- (a) to have regulation 20 (rights to return of contributions) of the 2014 Regulations deemed to apply to the contributions paid both into the earlier Schemes and the Scheme (where the period in respect of which contributions to the earlier Schemes were paid has been aggregated with membership of the Scheme);
- (b) to be a deferred member of the Scheme notwithstanding regulation 8(1) (deferred members) of the 2014 Regulations; or
- (c) if the member has reached the normal retirement age applicable to that member under the 2009 Scheme, to draw retirement pension immediately, notwithstanding regulation 8(1) (deferred members) of the 2014 Regulations.

(6) An election under paragraph (4), (5)(a) or (5)(b) must be made in writing to the Committee within the period of 6 months beginning with the date on which the active membership ceased and an election under paragraph (5)(c) must be made to the Committee within the period of 6 months beginning with the date of cessation of local government employment, and in default of any election being made the member shall—

- (a) in the case of a member satisfying the conditions in paragraph (4), be awarded a deferred benefit under the Scheme; or
- (b) in the case of a member satisfying the conditions in paragraph (5), be awarded a deferred benefit in the Scheme, or an immediate pension, as appropriate.

### **Pensionable pay**

8. (1) For the purposes of calculating assumed pensionable pay under regulation 23 (assumed pensionable pay) of the 2014 Regulations, if all or part of the periods referred to in paragraph (4) of that regulation fall before 1st April 2015, the calculation must include the pensionable pay the member received before 1st April 2015 in relation to that period.

(2) Where these Regulations provide for final pay received after 31st March 2015 to be calculated under regulations 8 to 11 (calculation of final pay) of the Benefits Regulations, if a member has a period of absence from work of the description in regulation 13(4)(b) or 13(4)(c) (contributions during absence from work with permission or due to a trade dispute) of the 2014 Regulations and, on or after the commencement of that period of absence, has purchased additional pension under regulation 18 (additional pension contributions) of the 2014 Regulations equivalent to the pension that the member would have accrued but for the absence—

- (a) the member is treated as entitled to count the period of absence as a period of membership; and
- (b) is treated as receiving the pay that would have been received but for the absence.

### **Transfers**

9. (1) Where a transfer payment is received into the Scheme in respect of a person from a different public service pension scheme which includes a payment in respect of service before 1st April 2015 which would have entitled the person to final salary benefits in that scheme, such payment shall entitle that person to benefits under the Scheme as if they were payable as final salary benefits under the 2009 Scheme so long as the person in respect of whom the transfer payment is received has had no continuous break in active membership of any public service pension scheme of more than five years.

(2) Where a transfer payment is to be made to a registered pension scheme or qualifying recognised overseas pension scheme in respect of a member of the Scheme, that transfer payment shall include any benefits accrued by that member under the earlier Schemes that are aggregated with the service under the Scheme.

(3) Where a transfer payment is received from a registered pension scheme which is not a public service pension scheme, or from a European Pensions Institution in respect of a member of the Scheme, if the relevant date in either case was before 1st April 2015, that transfer payment shall be dealt with by the Committee as if it had been received in respect of membership of the 2009 Scheme.

(4) The relevant date for the purposes of paragraph (3) is the date on which the person first became an active member in the employment, or the date the transfer payment is received if more than 12 months later.

(5) Transfer payments will be calculated in accordance with guidance issued by the Department.

### Retirement benefits

10. (1) A member who became an active member of the Scheme by virtue of regulation 5(1) (membership of the Scheme) must, upon drawing a retirement pension under regulation 31 (retirement benefits), 36 (early payment of retirement pension on ill-health grounds: active members) or 37 (early payment of retirement pension on ill-health grounds: deferred members) of the 2014 Regulations, draw any aggregated benefits accrued in the earlier Schemes at the same time as those benefits accrued under the Scheme are drawn.

(2) A member who became an active member of the Scheme by virtue of regulation 5(1) (membership of the Scheme) must, if exercising the option in regulation 31(6) (flexible retirement) of the 2014 Regulations, make a request to receive the benefits mentioned in paragraph (3) and such benefits may, with the member's employing authority's consent be paid to the member notwithstanding that the member has not retired.

(3) The benefits referred to in paragraph (2) are—

- (a) all of the aggregated benefits from the 2002 Scheme;
- (b) all, part or none of the aggregated benefits accrued under the 2009 Scheme;
- (c) all, part or none of the aggregated benefits accrued under the Scheme; and
- (d) any additional benefits in accordance with actuarial guidance issued by the Department.

(4) For the purposes of paragraph (3) additional benefits are—

- (a) benefits from added years contracts entered into under regulation 57 (payments to increase total membership) of the 2002 Regulations or equivalent provisions of the other earlier Schemes;
- (b) benefits under regulation 19(7) (additional voluntary contributions) of the 2014 Regulations or equivalent provisions of the earlier Schemes;
- (c) additional pension purchased under regulation 18 (additional pension contributions) of the 2014 Regulations or regulation 19 (payment of additional regular contributions) of the Administration Regulations and regulation 14 (election in respect of additional pension) of the Benefits Regulations; and
- (d) additional pension awarded under regulation 32 (award of additional pension) of the 2014 Regulations or regulation 13 (power of employing authority to award additional pension) of the Benefits Regulations.

### Ill-health retirement

11. (1) A member who qualifies for Tier 1 benefits or Tier 2 benefits under the 2014 Regulations who would have benefited from the protection in regulation 20(7) (transitional protection for those aged 45 before 1st April 2009) of the Benefits Regulations<sup>(5)</sup> if those Regulations had applied on the date the member's employment was terminated, is entitled to benefits equalling the higher of—

- (a) the Tier 1 benefits or Tier 2 benefits, as the case may be, calculated under the 2014 Regulations and these Regulations; or
- (b) the benefits the member would have received under sub-paragraph (a) if the amount to be added under regulation 39(1) or (2) (calculation of ill-health pension amounts) of the 2014 Regulations were calculated by reference to the period that would have been added had regulation 30 (amounts of ill-health pension and grant) of the 2002 Regulations applied and if—
  - (i) the period of membership the member had accrued under the earlier Schemes and the Scheme had counted as a period of membership of the 2002 Scheme; and

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(5) Paragraph 7 was substituted by S.R. 2012 No. 183



(ii) the amount added under regulation 39(1) or 39(2) of the 2014 Regulations were calculated by reference to a 1/60th accrual rate.

(2) The 2014 Regulations shall apply to a person in respect of whom benefits are paid under regulation 20(2) (early leavers: ill-health) of the Benefits Regulations as if that person were in receipt of Tier 1 benefits under the 2014 Regulations.

(3) The 2014 Regulations shall apply to a person in respect of whom benefits are paid under regulation 20(3) (early leavers: ill-health) of the Benefits Regulations as if that person were in receipt of Tier 2 benefits under the 2014 Regulations.

(4) A certificate produced by an independent registered medical practitioner ((IRMP) as defined in Schedule 1 (interpretation) of the 2014 Regulations) under the 2009 Scheme may be used for the purposes of making determinations under the Scheme.

(5) A person who has received an ill-health pension and grant under the earlier Schemes, which for the purposes of this paragraph does not include the 2009 Scheme, is to be treated as if that person were in receipt of Tier 1 benefits under the 2014 Regulations.

### **Lump sum commutation**

**12.** (1) Where a member elects to commute pension under regulation 34 (election for lump sum instead of pension) of the 2014 Regulations, the member's benefits under the earlier Schemes which are aggregated with the member's benefits under the Scheme are taken into account for the purposes of regulation 34(1) and 34(2) of the 2014 Regulations.

(2) In the case of a pensioner member of the Scheme with benefits under the earlier Schemes and the Scheme which have been aggregated as is described in paragraph (1) and who commuted pension under regulation 34 of the 2014 Regulations, for the purposes of working out any entitlement to death grant, the pension the member received is treated as having been reduced in the proportions described in paragraphs (3) and (4).

(3) Pension accrued under the Scheme is treated as reduced by that percentage of the amount of pension commuted which the amount of pre-commutation pension under the Scheme bears to the total pre-commutation pension.

(4) Pension accrued under the earlier Schemes is treated as reduced by that percentage of the amount of pension commuted which the amount of pre-commutation pension under the earlier Schemes bears to the total pre-commutation pension.

### **Contributions**

**13.** (1) Notwithstanding the revocations effected by regulation 2 (revocation of regulations), the Administration Regulations and the Benefits Regulations continue to have effect so far as is necessary to ensure that where—

(a) a member has a period of absence from work which begins before 1st April 2015 and ends after that date, the period falling before 1st April 2015 is to be dealt with in accordance with those Regulations and the period falling after 31st March 2015 is to be dealt with in accordance with the 2014 Regulations; and

(b) a member receives pensionable pay after 31st March 2015 which relates to a period prior to 1st April 2015, the member's contributions are payable on the pensionable pay as defined in regulation 4 (meaning of pensionable pay) of the Benefits Regulations at the rate payable under those Regulations; and

any contributions that the member makes after 1st April 2015 in respect of the absence or that pay must be allocated according to the period to which they relate and benefits accrued accordingly.

(2) A member entitled to a refund of contributions under regulation 20 (rights to return of contributions) of the 2014 Regulations, who has paid contributions under the earlier Schemes and has aggregated the periods in which those contributions were paid with membership of the Scheme, is entitled to a refund of contributions paid to the earlier Schemes in respect of that aggregated membership.

### **Additional contributions**

**14.** (1) Notwithstanding the revocations effected by regulation 2 (revocation of regulations) the following regulations continue to have effect—

- (a) regulation 57 (payments to increase total membership) of the 2002 Regulations as it applies to a member who has elected before 1st April 2009 to make additional contributions to increase total membership by an additional period;
- (b) regulation 68(8) (elections as to use of accumulated value of AVCs) of the 2002 Regulations prior to 1st February 2003 in respect of a person who made an election under regulation C24(1) (additional voluntary contributions) of the 2000 Regulations before 1st February 2003;
- (c) regulation 84 (discontinuance of additional contributions) of the 2002 Regulations in respect of a person to whom sub-paragraph (a) applies; and
- (d) regulations 14 (election to pay additional regular contributions), 14A(6) (election to pay additional contributions: additional survivor benefits) and 15 (election to pay additional voluntary contributions (AVCs)) of the Benefits Regulations and regulations 19 (payment of additional regular contributions (ARCs)), 20 (discontinuance of ARCs), regulation 20A(7) (payment of additional contributions: survivor benefits (ASBCs)), 20B(8) (discontinuance of ASBCs), 21 (additional voluntary contributions and shared cost additional voluntary contributions), 22(9) (use of accumulated value of AVCs and SCAVCs), 23 (separate treatment of AVCs and SCAVCs from other contributions) and 24 (cost of calculations of additional pension where no notification is given under regulation 22(4)) of the Administration Regulations as they apply to a member who has elected before 1st April 2015 to pay additional contributions or additional voluntary contributions under those regulations.

(2) Benefits accrued under the regulations preserved by paragraph (1) must be calculated using the normal retirement age under the 2009 Scheme and treated as benefits under that Scheme.

(3) Notwithstanding regulation 19(11) of the 2014 Regulations (additional voluntary contributions), a person to whom regulation 5(1) (membership of the Scheme) applies who has not had a continuous break in active membership of a public service pension scheme of more than five years, may elect not to transfer the realisable value in any deferred AVC account to an arrangement under regulation 19 of the 2014 Regulations.

(4) In this regulation—

“ARCs” means additional regular contributions as referred to in regulation 19 (payment of additional regular contributions) of the Administration Regulations; and

“AVCs” means additional voluntary contributions as referred to in regulation 21 (additional voluntary contributions and shared cost additional voluntary contributions) of the Administration Regulations and regulation 19 (additional voluntary contributions) of the 2014 Regulations.

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(6) S.R. 2009 No. 32; regulation 14A was inserted by S.R. 2010 No. 410.

(7) S.R. 2009 No. 33; regulation 20A was inserted by S.R. 2010 No. 410.

(8) S.R. 2009 No. 33; regulation 20B was inserted by S.R. 2010 No. 410.

(9) S.R. 2009 No. 33; regulation 22 was amended by S.R. 2012 No. 183.

### **Annual allowance**

15. (1) If a member gives the Committee notice of joint and several liability under section 237B(10) of the Finance Act 2004 (liability of scheme administrator) in respect of the member's annual allowance charge after 1st April 2015, the Committee may adjust the member's benefits accrued within the earlier Schemes in accordance with actuarial guidance issued by the Department.

(2) In this regulation "annual allowance charge" has the meaning given to that expression by section 227(11) of the Finance Act 2004.

### **Death grants**

16. (1) Death grants in the case of a member who did not accrue any membership of the Scheme are calculated under the earlier Schemes notwithstanding the revocations effected by regulation 2 (revocation of regulations).

(2) Subject to paragraph (3), death grants in the case of an active member who accrued any membership of the Scheme are calculated under regulation 40 (death grants: active members) of the 2014 Regulations regardless of whether the member had accrued any membership of the earlier Schemes (excluding membership deriving from a pension credit).

(3) In the case of an active member of the Scheme who is also a deferred member or a pensioner member of the earlier Schemes, if the amount of death grant that would have been payable if regulations 32 (death grants: deferred members) and 35 (death grants: pensioner members) of the Benefits Regulations, or the corresponding provision of any of the former regulations, still applied is higher than the amount that would be payable under paragraph (2), the death grant payable is that higher amount.

(4) Death grants in the case of a deferred member or pensioner member of the Scheme who has membership accrued before 1st April 2015 are calculated by adding together the death grant calculated under the earlier Schemes based on membership accrued before 1st April 2015, and the death grant calculated under the Scheme based on membership after 31st March 2015.

### **Survivor benefits**

17. (1) Survivor pensions, in the case of a survivor of a person who became an active member of the Scheme member by virtue of regulation 5(1) (membership of the Scheme) are calculated by adding together the 2009 Scheme survivor pension and the Scheme survivor pension.

(2) Subject to paragraphs (5) to (9), 2009 Scheme survivor pensions for the purposes of paragraph (1) are calculated under the 2009 Scheme, notwithstanding the revocations effected by regulation 2 (revocation of regulations), taking account of the deceased member's membership up to 31st March 2015 but—

(a) in the case of a death in service where a survivor benefit is payable under regulations 41 (survivor benefits: partners of active members) or 43 (survivor benefits: children of active members) of the 2014 Regulations, excluding any augmentation under regulation 20(2) (early leavers: ill-health) of the Benefits Regulations; and

(b) using the final pay calculated in accordance with regulations 8 to 11 (calculation of final pay) of the Benefits Regulations as if those Regulations are still in operation.

(3) The Scheme survivor pensions for the purposes of paragraph (1) are calculated in accordance with the 2014 Regulations.

(4) Subject to paragraphs (5) to (9), where—

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(10) 2004 c.12; section 237B was inserted by the Finance Act 2011 (c.11).

(11) 2004 c.12; section 227 has been amended by the Finance Act 2009 (c.10) and the Finance Act 2011.

- (a) a member did not accrue any membership in the Scheme but had pension rights under the earlier Schemes; or
- (b) a member did accrue membership in the Scheme and has pension rights under the earlier Schemes that have not been aggregated with the rights in the Scheme,

the survivor pension in respect of rights under the earlier Schemes are calculated under the earlier Schemes notwithstanding the revocations effected by regulation 2 (revocation of regulations).

(5) For the purposes of calculating eligibility of a person to survivor benefits under the 2009 Scheme and the other earlier Schemes, the definition of “eligible child” contained in Schedule 1 (interpretation) to the 2014 Regulations is substituted for the definition contained in regulation 26 (meaning of “eligible child”) of the Benefits Regulations and the corresponding provisions in other earlier Regulations.

(6) Any calculation of the survivor pension payable under the former regulations to a person specified in paragraph (7) is only to take account of membership accrued by a member after 5th April 1988.

(7) The persons referred to in paragraph (6) are—

- (a) the surviving civil partner of a member where the civil partnership took place after the member’s active membership ceased;
- (b) the survivor of a female married—
  - (i) deferred member; or
  - (ii) pensioner member,

where the marriage took place after the member’s active membership ceased; and

(c) a nominated cohabiting partner.

(8) Where a male deferred member or pensioner member marries and dies, any calculation of any survivor pension payable under the former regulations to a female survivor of the member is only to take account of membership accrued by the member after 5th April 1978.

(9) Membership for the purposes of paragraphs (6) and (8) includes any relevant additional membership that would have counted as membership for the purposes of regulation 44 and 44A (reduction of some surviving spouses’ pensions) of the 2002 Regulations.

### **Apportionment agreements**

**18.** Any apportionment agreements entered into under regulation 33A (apportionment of liabilities) of the Administration Regulations before 1st April 2015 or any agreement entered into prior to the introduction of that Regulation and treated as an agreement under that regulation by reason of regulation 33A(6) continues to have effect on and after 1st April 2015.

### **The 85 year rule**

**19.** Schedule 3 (which makes transitional provision relating to the so-called “85 year rule”) has effect in relation to a member who was subject to regulation 11 (the 85 year rule) of the Transitional Regulations 2009 prior to their revocation by these Regulations.

### **Pension sharing**

**20.** (1) A valuation of benefits of a person who is a member of the Scheme shall, for the purposes of a pension sharing order, take account of any benefits the member has accrued in the earlier Schemes.

(2) The beneficiary of an order of the type described in paragraph (1) is not to be credited with any benefits under the earlier Schemes, but is entitled to a pension credit under the Scheme in compliance

with the pension sharing order and calculated in accordance with actuarial guidance issued by the Department.

(3) Where a pension sharing order requires a pension debit in respect of a percentage of a member's pension benefits, any benefits accrued in the earlier Schemes or the Scheme shall be debited by the same percentage unless the order specifies otherwise, with the debit being calculated in accordance with actuarial guidance issued by the Department.

(4) Where a pension sharing order requires a pension debit in terms other than a percentage of the member's benefits, the debit is to apply in proportion to the cash equivalent transfer value of the benefits accrued within the earlier Schemes and the Scheme unless the order specifies otherwise.

(5) In this regulation—

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order<sup>(12)</sup> or under section 29(1)(b) of the 1999 Act<sup>(13)</sup>;

“pension credit member” has the meaning given by regulation 10(1) (pension credit and survivor members) of the 2014 Regulations;

“pension credit rights” means rights to benefits under the Scheme which are attributable to a pension credit;

“pension debit member” means a member, whether an active member, a deferred member or a pensioner member, whose shareable rights under the Scheme are subject to a pension debit;

“pension sharing order” means an order or provision by virtue of which Article 26 of the 1999 Order or section 29 of the 1999 Act takes effect; and

“shareable rights” means a person's shareable rights mentioned in Article 24(2) of the 1999 Order or under section 27(2) of the 1999 Act.

### **Councillors' pensions**

**21.** (1) Subject to regulation 3(1) to (5) (membership before 1st April 2015), any councillor who was an active member of the 2009 Scheme as at 31st March 2015 becomes a member of the Scheme, as modified by regulation 4 (eligibility of councillors) of, and Schedule 4 (councillors members) to the 2014 Regulations, on 1st April 2015.

(2) Where paragraph (1) applies, the appropriate amount of pension accrued under the 2009 from membership of the new council shall be credited by the Committee to that councillor's active member pension account under the Scheme.

(3) Where a councillor who has deferred councillor membership of the 2009 Scheme in respect of a new council becomes an active member of the Scheme, whether by reason of paragraph (1) or otherwise, the appropriate amount of pension accrued under the 2009 Scheme in respect of that deferred membership of the new council shall be credited by the Committee to that councillor's active member pension account under the Scheme.

(4) The active membership of any councillor in respect of an existing council shall end on 31st March 2015 and that membership shall be treated as deferred membership unless the councillor qualifies for the immediate payment of retirement benefits under regulations 16 (normal retirement) or 17 (retirement after normal retirement age) of the Benefits Regulations or the councillor member chooses to receive the immediate payment of retirement benefits under regulation 30 (choice of early payment of pension) of those Regulations.

(5) Where paragraph (4) applies the Committee shall apply the appropriate actuarial adjustment in accordance with guidance issued by the Department, for the early or late payment of retirement benefits.

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(12) S.I. 1999/3147 (N.I. 11).

(13) 1999 c. 30.

(6) A councillor of a new council who becomes an active member of Scheme, whether by reason of paragraph (1) or otherwise, may elect to aggregate any deferred councillor membership of the 2009 Scheme in respect of an existing council, under paragraph (4) or otherwise, with the councillor's active membership of the Scheme by giving notice in writing to the Committee within 12 months of becoming an active member of the Scheme.

(7) Where a councillor member has so elected under paragraph (6) the Committee shall credit that councillor's active member pension account under the Scheme with the appropriate amount of pension accrued under the 2009 Scheme.

#### **Employing authorities' obligations**

**22.** (1) Employing authorities must provide the Committee with such information as it reasonably requires to enable it to discharge its functions under these Regulations and any outstanding functions under the former regulations.

(2) The Committee may give a written notice under regulation 76 (additional costs arising from employing authority's level of performance) of the 2014 Regulations where the additional costs incurred were as a result of the employing authority's level of performance in carrying out functions under the Administration Regulations or the Benefits Regulations.

#### **Determination of questions and disputes**

**23.** Regulations 79 to 89 (decisions) of the 2014 Regulations apply in respect of questions not finally determined by 1st April 2015 concerning the rights and liabilities of a person under the earlier Schemes as they apply to questions under the Scheme.

#### **Minor and consequential amendments**

**24.** The provisions specified in Schedule 4 shall have effect with the amendments made by that Schedule.

#### **Transitional and transitory provisions and savings**

**25.** (1) Schedule 5 shall have effect for the purpose of making transitional and transitory provisions and savings.

(2) Nothing in that Schedule affects the general operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954<sup>(14)</sup>.

Sealed with the Official Seal of the Department of the Environment on 30th June 2014.

*Elizabeth Loughran*  
A senior officer of the Department of the  
Environment

## SCHEDULES

### SCHEDULE 1

Regulation 1

#### INTERPRETATION

- “the 1999 Act” means the Welfare Reform and Pensions Act 1999**(15)**;
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999**(16)**;
- “the 2000 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000**(17)**;
- “the 2000 Scheme” means the occupational pension scheme constituted by the 2000 Regulations;
- “the 2002 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002**(18)**;
- “the 2002 Scheme” means the occupational pension scheme constituted by the 2002 Regulations;
- “the 2009 Regulations” means the Benefits Regulations, the Administration Regulations and the Transitional Regulations 2009;
- “the 2009 Scheme” means the occupational pension scheme constituted by the Benefits Regulations, the Administration Regulations and the Transitional Regulations 2009;
- “the 2014 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2014**(19)**;
- “active member” means a person who is in an employment, and is—
- (a) paying contributions to the Scheme;
  - (b) treated as paying contributions to the Scheme; or
  - (c) absent from that employment for one of the reasons mentioned in regulation 13 (contributions during absence from work) of the 2014 Regulations and entitled to pay contributions to the Scheme;
- “actuarial guidance issued by the Department” means guidance identified by the Department as such, which has been issued in accordance with regulation 2(3) (introduction and interpretation) of the 2014 Regulations;
- “additional maternity or adoption leave” means leave under Article 105 or 107B of the Employment Rights (Northern Ireland) Order 1996**(20)**;
- “additional paternity leave” means leave under the Additional Paternity Leave Regulations (Northern Ireland) 2010**(21)**;

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**(15)** 1999 c. 30.

**(16)** S.I. 1999/3147 (N.I. 11).

**(17)** S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353.

**(18)** S.R. 2002 No. 352 as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R. 2005 No. 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479 and S.R. 2009 No. 34.

**(19)** S.R. 2014 No. 188.

**(20)** S.I. 1996/1919 (N.I. 16).

**(21)** S.R. 2010 No. 297.

“additional pension” means pension under the 2014 Regulations other than earned pension;

“admission agreement” means an agreement between the Committee and an admission body that named individuals, or all or any specified class of the admission body’s employees, may be members of the Scheme;

“admission body” has the meaning given to that expression at paragraph (2) of Part 1 of Schedule 2 (admission agreements with admission bodies) to the 2014 Regulations;

“the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009(22);

“automatic enrolment date” means the automatic enrolment date within the meaning of section 3 of the Pensions (No. 2) Act (Northern Ireland) 2008(23);

“the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(24);

“child-related leave” means—

- (a) ordinary adoption leave;
- (b) ordinary maternity leave;
- (c) additional maternity or adoption leave during which the member receives some pensionable pay;
- (d) paternity leave; or
- (e) additional paternity leave during which the member receives some pensionable pay;

“the Committee” means the Northern Ireland Local Government Officers’ Superannuation Committee established under section 1 of the Local Government (Superannuation) Act (Northern Ireland) 1950(25);

“contract of employment” includes terms of office;

“council” means an existing council or a new council;

“councillor” means a member of a new council or a member of an existing council;

“councillor member” means a person who is a member of the Scheme by reason of being a councillor;

“councillor membership” means any period of membership which counts in respect of service as a member of a council and not other local government employment;

“deferred member” has the meaning given by regulation 8 (deferred members) of the 2014 Regulations;

“the Department” means the Department of the Environment;

“the earlier Schemes” means the 2009 Scheme, the 2002 Scheme and the 2000 Scheme, or as circumstances require, a scheme established by the Local Government (Superannuation) Regulations (Northern Ireland) 1992(26), Local Government (Superannuation) Regulations (Northern Ireland) 1981(27), Local Government (Superannuation) Regulations (Northern Ireland) 1962(28), Local Government (Superannuation) Regulations (Northern Ireland)

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(22) S.R. 2009 No. 33 as amended by S.R. 2010 No. 164, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 183 and S.R. 2013 No. 71.

(23) 2008 c. 13 (N.I.).

(24) S.R. 2009 No. 32 as amended by S.R. 2010 No. 164, S.I. 2010/234, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 85, S.R. 2012 No. 183 and S.R. 2013 No. 71.

(25) 1950 c. 10 (N.I.).

(26) S.R. 1992 No. 547; as amended by other instruments listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177).

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

(28) S.R. & O. (N.I.) 1962 No. 210.



1950(29) and shall be deemed also, in the case of a member who immediately before 1st April 1973 was subject to the Belfast Corporation Superannuation Scheme to include the provisions of that Scheme;

“earned pension” means pension accrued from the member’s pensionable pay pursuant to regulation 25(4) or 25(5) (active member’s pension accounts) or credited pursuant to regulation 113(1) (effect of acceptance of transfer value) of the 2014 Regulations;

“employee” includes a whole-time employee, part-time employee and variable-time employee;

“employing authority” means a body employing an employee who is eligible to be a member or is a local authority as defined in Article 2 of the Superannuation (Northern Ireland) Order 1972;

“employing authority’s consent” includes the consent of the Committee in circumstances where the member’s employer or former employer is no longer an employing authority;

“employment” includes office;

“European Pensions Institution” has the same meaning as in Article 269(8) of the Pensions (Northern Ireland) Order 2005(30);

“existing council” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972(31) as in force immediately prior to the making of the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013(32);

“the former regulations” means the 2009 Regulations, the 2002 Regulations, the 2000 Regulations, or as the circumstances require, the Local Government (Superannuation) Regulations (Northern Ireland) 1992, Local Government (Superannuation) Regulations (Northern Ireland) 1981, Local Government (Superannuation) Regulations (Northern Ireland) 1962, Local Government (Superannuation) Regulations (Northern Ireland) 1950 and shall be deemed also, in the case of a member who immediately before 1st April 1973 was subject to the Belfast Corporation Superannuation Scheme to include the provisions of that Scheme;

“the fund” means a superannuation fund established under the Local Government (Superannuation) Regulations (Northern Ireland) 1950;

“gainful employment” means paid employment for not less than thirty hours in each week for a period of not less than twelve months;

“local government employment” means employment by virtue of which the person employed is or has been a member of the Scheme;

“membership” is to be construed in accordance with Article 121(1) of the Pension (Northern Ireland) Order 1995(33);

“new council” means a district council constituted under section 1 (district councils) of the Local Government Act (Northern Ireland) 1972) as amended by section 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008;

“normal retirement age” in relation to the 2009 Scheme, is 65;

“occupational pension scheme” has the meaning giving by section 150(5) of the Finance Act 2004(34);

“part-time employee” means an employee whose contract of employment provides—

(a) that the employee is such an employee for the Scheme, or

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(29) S.R. & O. (N.I.) 1950 No. 103 (p. 423).

(30) 2005 No. 255 (N.I. 1).

(31) 1972 Chapter 9 (N.I.)

(32) S.R. 2013 No. 238 (C.15)

(33) 1995 No. 3213 (N.I. 22).

(34) 2004 c. 12.

- (b) who is neither a whole-time employee nor a variable-time employee;
- “paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002<sup>(35)</sup>;
- “pension debit” means a debit under Article 26(1)(a) of the 1999 Order or under section 29(1)(a) of 1999 Act;
- “pensionable pay” in relation to—
- (a) the 2009 Scheme, has the meaning given in regulation 4 (meaning of “pensionable pay”) of the Benefits Regulations; and
- (b) the Scheme, has the meaning given in regulation 22 (meaning of “pensionable pay”) of the 2014 Regulations, but if circumstances specified in regulation 23(2) (assumed pensionable pay) of the 2014 Regulations apply, references to a member’s pensionable pay are references to that member’s assumed pensionable pay;
- “pensioner member” has the meaning given by regulation 9(1) (pensioner members) of the 2014 Regulations;
- “public service pension scheme” means has the same meaning as in section 150(3) of the 2004 Finance Act;
- “qualifying recognised overseas pension scheme” has the same meaning as in section 169(2) of the 2004 Finance Act;
- “qualifying service for a period of 2 years” has the meaning given to it by regulation 3(5) (active membership) of the 2014 Regulations;
- “registered pension scheme” has the same meaning as in section 150(2) of the 2004 Finance Act;
- “reserve forces service leave” means absence from duty because of being called out or recalled for permanent service in Her Majesty’s armed forces pursuant to a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996<sup>(36)</sup>;
- “retirement pension” includes earned pension and additional pension;
- “reevaluation adjustment” means the consumer prices index of annual inflation published by the Office of National Statistics for the September preceding the end of a Scheme year which is to be applied to the sum in a pension account at the beginning of the next Scheme year;
- “the Scheme” means the occupational pension scheme constituted by these Regulations, the 2014 Regulations;
- “Scheme year” means a period of one year beginning with 1st April and ending with 31st March;
- “service” means service or employment with an employing authority and service rendered by an employee of an employing authority whose services are placed at the disposal of a Minister of the Crown or a Government department in pursuance of any enactment is to be treated as service with an employing authority;
- “survivor pension” means a pension payable under regulations 41 (survivor benefits: partners of active members), 43 (survivor benefits: children of active members), 44 (survivor benefits: children of active member where pension is payable to partner of active member), 45 (survivor benefits: children of active member where no pension is payable to partner of active member), 47 (survivor benefits: partners of deferred members), 48 (survivor benefits: children of deferred members), 49 (survivor benefits: children of deferred member where pension is payable to partner of deferred member), 50 (survivor benefits: children of deferred member where pension

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<sup>(35)</sup> S.R. 2002 No. 377.

<sup>(36)</sup> 1996 c. 14.

no is payable to partner of deferred member), 52 (survivor benefits: partners of pensioner members), 53 (survivor benefits: children of pensioner members), 54 (survivor benefits: children of pensioner member where pension is payable to partner of pensioner member) and 55 (survivor benefits: children of pensioner member where pension no is payable to partner of pensioner member) of the 2014 Regulations;

“Tier 1 benefits” has the meaning given by regulation 36(4) (early payment of retirement pension on ill-health grounds: active members) calculated in accordance with regulation 39 (calculation of ill-health pension amounts) of the 2014 Regulations;

“Tier 2 benefits” has the meaning given by regulation 36(5) (early payment of retirement pension on ill-health grounds: active members) calculated in accordance with regulation 39 (calculation of ill-health pension amounts) of the 2014 Regulations;

“trade dispute” has the meaning given in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(37);

“total membership” means the aggregate of periods of membership which count as such under regulation 3 (active membership) of the 2014 Regulations;

“transfer value payment” means a payment made from the Scheme to another registered pension scheme or qualifying recognised overseas pension scheme, or a payment received by the Scheme from a registered pension scheme or from a European Pensions Institution;

“the Transitional Regulations 2009” means the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009(38);

“variable-time employee” means an employee whose contract of employment provides that the employee is such an employee for the Scheme and—

- (a) whose pay is calculated by reference to the employee’s duties (rather than necessarily by reference to the number of hours the employee has worked), or
- (b) whose duties only have to be performed on an occasional basis; and

“whole-time employee” means an employee whose contract of employment provides—

- (a) that the employee is such an employee for the Scheme, or
- (b) that the employee’s contractual hours are not less than the number of contractual hours for a person employed in that employment on a whole-time basis.

## SCHEDULE 2

Regulation 2

### REVOCATION OF REGULATIONS

Except where these Regulations provide otherwise, the Regulations listed below are revoked.

The 2000 Regulations are revoked, in so far as they have not already revoked;

The 2002 Regulations are revoked, in so far as they are not already revoked, except for the provisions listed below—

- Regulation 24, (permanent reductions in pay: certificates of protection of pension benefits);
- Regulation 111 (provision of information, charging and prescribed persons);
- Regulation 126 (credited periods for transferring members with mis-sold pension rights);
- Regulation 127 (rights as to service not matched by credited period); and

(37) S.I. 1995/1980 (N.I. 12)

(38) S.R. 2009 No. 34 as amended by S.R. 2010 No. 410 and 2013 No. 71.

Schedule 5 (mis-sold pensions);

The Benefits Regulations are revoked except for the provision listed below—

Regulation 8 (final pay: general) as amended by regulation 7 of the Local Government Pension Scheme (Amendment) Regulation (Northern Ireland) 2010(39);

The Administration Regulations are revoked except for the provisions listed below—

Regulation 4 (employees of community admission bodies) for the purposes of the Local Government (Superannuation) (Milk Marketing Board for Northern Ireland) Regulations (Northern Ireland) 1997(40), subject to regulation 28 (savings) of the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2013(41);

Regulation 6 (admission agreements – further provisions) of the Administration Regulations for the purposes of regulation 5(5) (membership of the Scheme) and regulation 6(2) (admission agreements), subject to regulation 28 (savings) of the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2013;

Regulation 11 (periods of membership) as amended by regulation 18 of the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2012(42);

The Transitional Regulations 2009 are revoked;

Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2010(43);

Local Government Pension Scheme (Councillors) (Amendment) Regulations (Northern Ireland) 2011(44);

Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2012(45) are revoked except for regulation 18 for the purposes of the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010; and

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2013(46) are revoked except for regulation 28 (savings) for the purposes of the Local Government (Superannuation) (Milk Marketing Board for Northern Ireland) Regulations (Northern Ireland) 1997(47).

### SCHEDULE 3

Regulation 19

#### THE 85 YEAR RULE: TRANSITIONAL PROVISIONS AND SAVINGS

1. (1) Paragraph 1(3) applies where a member of the description in paragraph 3(1) or 3(2) makes a request to receive immediate payment of retirement benefits under—

- (a) regulation 30(1) (choice of early payment of pension) of the Benefits Regulations;
- (b) regulation 31(5) (retirement benefits: early payment) of the 2014 Regulations if—
  - (i) the member is aged 60 or over at the date of early retirement; or

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(39) S.R. 2010 No. 164.

(40) S.R. 1997 No. 137 as amended by Schedule M4 to S.R. 2000 No. 177 (Schedule M4 to S.R. 2000 No. 177 was amended by regulation 11 of S.R. 2001 No. 64), S.R. 2002 No. 353 and S.R. 2009 No. 34.

(41) S.R. 2013 No. 71.

(42) S.R. 2012 No. 183.

(43) S.R. 2010 No. 410.

(44) S.R. 2011 No. 117.

(45) S.R. 2012 No. 183.

(46) S.R. 2013 No. 71.

(47) S.R. 1997 No. 137 as amended by Schedule M4 to S.R. 2000 No. 177 (Schedule M4 to S.R. 2000 No. 177 was amended by regulation 11 of S.R. 2001 No. 64), S.R. 2002 No. 353 and S.R. 2009 No. 34.

- (ii) the member is aged 55 or over but aged under 60 at the date of early retirement and the member's employing authority agrees that paragraph 1(3) should apply; or
    - (c) regulation 31(6) (retirement benefits: flexible retirement) of the 2014 Regulations.
  - (2) Paragraph 1(4) applies, where paragraph 1(1)(b)(ii) would otherwise apply, but the member's employing authority does not agree that paragraph 1(3) should apply.
  - (3) Where this sub-paragraph applies—
    - (a) if the member satisfies the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 30(4) of the Benefits Regulations or regulation 31(5) (retirement benefits: early payment) or 31(6) (retirement benefits: flexible retirement) of the 2014 Regulations; and
    - (b) if the member does not satisfy the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of early retirement and the date the member would satisfy the 85 year rule, or age 65 if earlier.
  - (4) Where this sub-paragraph applies—
    - (a) if a member satisfies the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of early retirement and age 60; and
    - (b) if the member does not satisfy the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of early retirement and the date the member would satisfy the 85 year rule, or age 65 if the member would not satisfy the 85 year rule before that time, or age 60 if later.
  - (5) References to an employing authority are to be read as including a former employing authority or where the member's employer or former employer ceased to be an employing authority and has not been succeeded by another employing authority, the Committee.
2. (1) A member's employing authority may determine on compassionate grounds to waive the reduction referred to in paragraph 1(4), 9(2) or, except where paragraph 1(1)(c) applies, paragraph 1(3)(b).
- (2) Regulation 66 (statements of policy about the exercise of discretionary functions) of the 2014 Regulations applies to paragraph 1(1)(b)(ii) as if it were specified in paragraph (1) of that regulation.
- (3) Where an employing authority agrees to the payment of benefits prior to age 60 in the circumstances described in paragraph 1(1)(a), or that paragraph 1(1)(b)(ii) should apply to a member, or determines to waive a reduction under sub-paragraph (1), the Committee shall require the employing authority concerned, or itself, to make additional payments to the fund in respect of any extra charge on the fund, as calculated by an actuary appointed by the Committee, resulting from the agreement or waiver of the reduction.
3. (1) For the purposes of paragraph 1, the relevant date for a member who will be aged 60 or more on 31st March 2016 and who was a member of the 2002 Scheme before 1st October 2006, is the earlier of—
- (a) 1st April 2016; and
  - (b) the date on the day after the day on which the member leaves local government employment.

(2) For the purposes of paragraph 1, the relevant date for a member who will not be aged 60 or more on 31st March 2016 and who was a member of the 2002 Scheme before the 1st October 2006, is 1st April 2008.

4. (1) A member satisfies the 85 year rule if the sum of—
- (a) the member's age in whole years on the date of early retirement under paragraph 1;
  - (b) the member's total membership in whole years;
  - (c) in a case where the request is made after the member's local government employment ends, the period beginning with the end of that employment and ending with the early retirement date requested by the member; and
  - (d) in the case of a person who was a member of the 2000 Scheme immediately before 1st February 2003, any qualifying period counted by virtue of regulation 127 (rights as to service not matched by credited period) of the 2002 Regulations which was awarded before 1st February 2003,

is 85 years or more.

- (2) In calculating the member's total membership—
- (a) the periods of membership taken into account are—
    - (i) the total membership the member accrued under the earlier Schemes which counts as membership in relation to the employment in respect of which the member has made a request to receive immediate payment of retirement benefits under paragraph 1; plus
    - (ii) the period during which the member paid, or is treated as having paid, contributions under regulations 11 (contributions) or 12 (temporary reduction in contributions) of the 2014 Regulations; plus
    - (iii) any period after 31st March 2015 of unpaid absence due to industrial action, or absence from work with permission with no pensionable pay otherwise than because of illness or injury, child related leave or reserve forces service leave, if contributions have been paid under regulation 18 (additional pension contributions) of the 2014 Regulations to cover that period; and
  - (b) no account is to be taken of—
    - (i) any increase in membership awarded under regulation 12 (power of employing authority to increase total membership of active members) of the Benefits Regulations;
    - (ii) any membership credited after 1st October 2012 under regulation 80 (right to count credited period) of the Administration Regulations or regulation 9 (transfers); or
    - (iii) subject to paragraph 5, any period on or after the date specified in regulation 33(4) (commencement of pensions following flexible retirement) of the 2014 Regulations or the date benefits became payable under regulation 18(48) (flexible retirement) of the Benefits Regulations or regulation 38(1A)(49) (requirements as to time of payment) of the 2002 Regulations.

5. (1) This paragraph applies to a member who received immediate payment under regulation 31(6) of the 2014 Regulations, regulation 18 of the Benefits Regulations, or regulation 38(1A) of the 2002 Regulations (retirement benefits: flexible retirement) of some, but not all, of the benefits to which that member was entitled.

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(48) S.R. 2009 No. 32; regulation 18 has been amended by S.R. 2012 No. 183 and S.R. 2013 No. 71.

(49) S.R. 2002 No. 352; regulation 38(1A) was inserted by S.R. 2007 No. 152; it was revoked, with savings, by S.R. 2009 No. 34.

(2) Where this paragraph applies, this Schedule, with the exception of paragraph 4(2)(b)(iii), continues to apply to any undrawn benefits accrued by the member before the date the member started to receive payment of benefits under those regulations.

6. (1) This paragraph applies to a member to whom regulation 4 (membership accrued before 1st April 2009: deferred members) of the Transitional Regulations 2009 or regulation 12 (re-employed and rejoining deferred members) of the Administration Regulations applies.

(2) Where such a member does not choose, or does not choose as respects all periods of membership, to be treated as if regulation 3 (membership accrued before 1st April 2009: active members) of the Transitional Regulations 2009 applies, or to have the member's membership aggregated under regulation 12 (re-employed and rejoining deferred members) of the Administration Regulations, or under regulation 24 (pension accounts) of the 2014 Regulations, as the case may be, then in applying paragraphs 1 to 5 and 9 as respects any later membership, the total membership excludes unaggregated periods.

7. (1) This paragraph applies to a member who was a member of the 2002 Scheme before 1st October 2006 who—

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase total membership under regulation 57(1) (payments to increase total membership) of the 2002 Regulations; and
- (b) was assumed to retire from local government employment on a date before the member's 65th birthday ("the assumed date") for the purposes of calculating additional contributions under regulation 57(5) of the 2002 Regulations.

(2) Where a member to whom this paragraph applies—

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

the member shall not pay any additional contributions after that date and the whole of the additional period shall be counted as part of the total membership for the purposes of paragraphs 1 to 5 and 9.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

8. (1) This paragraph applies to a person who was an active member of one of the earlier Schemes before 1st October 2006 and who—

- (a) ceases to be an active member of the 2002 Scheme, the 2009 Scheme or the Scheme (whether before, on or after that date); and
- (b) resumes active membership.

(2) If a member to whom this paragraph applies aggregates any period of membership after the resumption of employment with the period of membership accrued in the previous local government employment—

- (a) where the member resumed active membership in the Scheme and has had a disqualifying break, this Schedule does not apply to the earlier period, except in applying this Schedule to the later period of membership, for the purposes of paragraph 4 (determining whether the member satisfies the 85 year rule); or
- (b) where a member resumed active membership in an earlier Scheme, or resumed active membership in the Scheme without a disqualifying break, this Schedule applies to the whole period of aggregated membership.

(3) A disqualifying break for the purposes of paragraph (2) is a continuous break in active membership of a public sector pension scheme of more than five years.

9. (1) This paragraph applies to a member who was a member before 1st October 2006, who will reach or has reached the age of 60 on or after 1st April 2016 and before 1st April 2020, and whose retirement benefits would (but for the provisions of this paragraph) have been actuarially reduced on account of the age at which they were drawn.

(2) That part of the member's retirement benefits which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with actuarial guidance issued by the Department.

## SCHEDULE 4

Regulation 24

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### **The Local Government (Superannuation) (Milk Marketing Board for Northern Ireland) Regulations (Northern Ireland) 1997**

1. The Local Government (Superannuation) (Milk Marketing Board for Northern Ireland) Regulations (Northern Ireland) 1997(**50**) shall be amended as provided for in paragraphs 2 and 3.

2. In regulation 1(2) (citation, commencement and interpretation) for the definition of "the Administration Regulations", substitute—

““the 2014 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2014(**51**);”.

3. In regulation 2 (preservation of membership of scheme)—

- (a) for “regulation 4(2) of the Administration Regulations” substitute “paragraph (2) of Part 1 of Schedule 2 to the 2014 Regulations”; and
- (b) for “regulation 4 of the Administration Regulations” substitute “paragraph (2) of Part 1 of Schedule 2 to the 2014 Regulations”.

#### **Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000**

4. The Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(**52**) shall be amended in accordance with paragraphs 5 and 6.

5. In regulation 2 (general definitions)

- (a) for the definition of “the 2002 Regulations” substitute—

““the 2014 Regulations” means the “the Local Government Pension Scheme Regulations (Northern Ireland) 2014” ;”

- (b) delete the definitions of “the Administration Regulations” and “the Benefits Regulations”;
- (c) in the definition of “the Committee” for “the Administration Regulations” substitute “the 2014 Regulations”; and
- (d) in the definition of “the Transitional Regulations” for “Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009”

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(50) S.R. 1997 No. 137 as amended by Schedule M4 to S.R. 2000 No. 177 (Schedule M4 to S.R. 2000 No. 177 was amended by regulation 11 of S.R. 2001 No. 64), S.R. 2002 No. 353 and S.R. 2009 No. 34.

(51) S.R. 2014 No. 188.

(52) S.R. 2000 No. 178 as amended by S.R. 2001 No. 62, S.R. 2003 No. 433, S.R. 2004 No. 260, S.R. 2006 No. 400 and S.R. 2009 No. 34.



substitute “Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014”.

6. In regulation 5 (management of the fund)—
  - (a) for paragraph (2) substitute—
    - “(2) The Committee must pay or credit to the fund, in addition to any other sum the 2014 Regulations and the Transitional Regulations specify must be paid or credited to the fund—
      - (a) the amounts payable by it or paid to it for the credit of the fund by any person under regulations 70 (special circumstances where revised actuarial valuations and certificates shall be obtained), 71 (apportionment of liabilities) and 73 (contributing body’s contributions) to 75 (payment by employing authorities to the Committee) of the 2014 Regulations;
      - (b) all members’ contributions including those made by virtue of the Transitional Regulations, except contributions payable under regulation 19 (additional voluntary contributions) of the 2014 Regulations;
      - (c) all income arising during the year from investment of the fund;
      - (d) all capital money deriving from such investment; and
      - (e) all additional payments received by it under the 2014 Regulations or the Transitional Regulations.”; and
    - (b) in paragraph (3) for “regulations 34 to 37 of the Administration Regulations” substitute “regulation 77 (interest on late payments) of the 2014 Regulations”.

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

7. The Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001(53) shall be amended as provided in paragraphs 8 to 10.

8. In regulation 2 (general interpretation)—
  - (a) in paragraph (1)—
    - (i) after the definition of the “1996 Order” insert—

““the 2014 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2014”;
    - (ii) delete the definition of “the Benefits Regulations”;
    - (iii) after the definition of “the Department” insert—

““the earlier regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981, the 1992 Regulations, the 2000 Regulations, the 2002 Regulations and the 2009 Regulations;”;
    - (iv) in the definition of “the LGPS Regulations” for “the Benefits Regulations, the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009” substitute “the Local Government Pension Scheme Regulations (Northern Ireland) 2014 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014”; and
    - (v) after the definition of “the 2002 Regulations” insert—

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(53) S.R. 2001 No. 279 as amended by S.R. 2002 No. 353, S.R. 2003 No. 61, S.R. 2006 No. 6 and S.R. 2009 No. 34.

“the 2009 Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009, the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009”;

- (b) in paragraph (2), for “the 2002 Regulations” substitute “the 2009 Regulations”; and  
 (c) for paragraph (3), substitute—

“(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 such of the earlier regulations as shall apply 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 such of the earlier regulations as shall apply.”.

9. In regulation 32(1)(d) (interpretation of Part V) for “regulation 2A of the Benefits Regulations and regulation 3A of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009” substitute “regulation 4 (eligibility of councillors) of the 2014 Regulations”.

10. In regulation 35(1) (allowances for pensioners), for sub-paragraph (b) substitute—

“(b) “(b) on so ceasing regulation 33 does not apply, but the person becomes entitled under the 2014 Regulations to receive payments in respect of an annual retirement pension and regulation 10 (final pay: reductions) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 or regulation 24(1) (different relevant period for calculating pensionable remuneration where a material reduction has been certified) of the 2002 Regulations (in so far as they continue to apply by virtue of these Regulations) does not apply; and”.

### **The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007**

11. The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007<sup>(54)</sup> shall be amended as provided for in paragraphs 12 to 14.

12. In regulation 2 (general interpretation)—

- (a) after the definition of “the 2003 Regulations”, insert—

““the 2014 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2014”; and

- (b) for the definition of “the Pension Regulations” substitute—

““the Pension Regulations” means the 2014 Regulations, the Local Government Pension Scheme Regulations (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014, the Benefits Regulations, the Administration Regulations and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (so far as they continue to operate);”.

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(54) S.R. 2007 No. 93 as amended by S.R. 2009 No. 34.

13. In regulation 3(1)(b)(ii) (application of the regulations) for “regulation 10 (ending of active membership) of the Administration Regulations” substitute “regulation 7 (ending active membership) of the 2014 Regulations”.

14. In regulation 5(1)(b) (discretionary compensation) for “an additional period of membership under regulation 12 (power of employing authority to increase total membership of members) or 13 (power of employing authority to award additional pension)” substitute “an award of additional pension under regulation 32 (award of additional pension) of the 2014 Regulations”.

### **The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009**

15. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009<sup>(55)</sup> shall be amended as provided for in paragraph 16.

16. For regulation 39(1) (commutation: small pensions) substitute—

“39. (1) Any authorised payment within the meaning of section 164 (authorised member payments) of the Finance Act 2004 (“the 2004 Act”) listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

- (a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of the 2004 Act;
- (b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of the 2004 Act; or
- (c) a commutation payment under regulations 6 (payment of relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(56)</sup>.”.

### **Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010**

17. The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010<sup>(57)</sup> shall be amended as provided for in paragraph 18.

18. In regulation 3 (amendment of the 2002 regulations) for “Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009” substitute “Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014”.

## SCHEDULE 5

Regulation 25

### TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

1. In this Schedule—

- (a) “the former regulations” means any provisions which by virtue of these Regulations cease to apply to any person at any time;

<sup>(55)</sup> S.R. 2009 No. 32; the relevant amending regulations are S.R. 2012 No. 183.

<sup>(56)</sup> S.I. 2009/1171.

<sup>(57)</sup> S.R. 2010 No. 164.

- (b) references to the revocation of any provision shall be taken to include its ceasing to apply to any person or in any situation (and related expressions shall be construed accordingly); and
- (c) “the Scheme” means the 2014 Regulations and these Regulations.

2. (1) The substitution of the Scheme for the former regulations does not affect the continuity of the law.

(2) Anything done or having the effect as if done under or for the purposes of any of the former regulations has effect, if it could have been done under or for the purposes of the corresponding provision of the Scheme, as if done also under or for the purposes of that corresponding provision.

(3) Any reference, whether expressed or implied, in the Scheme or in any other instrument or document to a provision of the Scheme shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the former regulations has effect, a reference to that corresponding provision.

(4) Any reference, whether expressed or implied, in any provision of the former regulations or in any other instrument or document to a provision of the former regulations shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of the Scheme.

(5) Any document made, served or issued after the Scheme come into operation in relation to any person which contains a reference to any of the former regulations shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of the Scheme.

(6) Where any provision of the former regulations (“the re-enacting provision”) re-enacted, with or without modification, a previous provision revoked by the 2009 Regulations or any other former provision, then, so far as is necessary to prevent the continuity of law from being affected, any reference in the Scheme or in any other instrument or document to the re-enacting provision shall, so far as the context permits, be construed as including a reference to that previous provision.

(7) Where by virtue of paragraph 2(6) of Schedule 5 to the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009<sup>(58)</sup> any reference to such a previous provision includes a reference to an earlier provision, sub-paragraph (6) applies so as to include a reference to that earlier provision too.

3. (1) Where—

- (a) any provision continues to have effect in relation to any person by virtue of these Regulations; and
- (b) on the day before the commencement date it has effect in relation to any person subject to any saving, transitional provision or modification,

nothing in these Regulations affects the operation of that saving, transitional provision or modification.

(2) The revocation by these Regulations of any provision previously revoked subject to savings does not affect the continued operation of those savings, in so far as they remain capable of having effect.

4. (1) If any person to whom a relevant benefit is or may become payable would, apart from this paragraph be placed in a worse position in relation to that benefit than that person would have been in had these Regulations not been made and makes an election under this paragraph, these Regulations

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<sup>(58)</sup> S.R. 2009 No. 34 as amended by S.R. 2010 No. 410 and S.R. 2013 No. 71.

shall have effect, in relation to that person and that benefit, as if they had provided for that person's position to continue without amendment (but see sub-paragraph (4)).

(2) An election under sub-paragraph (1) must be made by notice in writing given to the Committee before the expiry of the period of 6 months beginning with the commencement date.

(3) In this paragraph—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

- (a) left an employment in which the person was an active member (whether or not the person has subsequently become an active member again); or
- (b) died while in such employment; and

“benefit” includes a return of contributions and any pension payable to a widow, widower, surviving civil partner, nominated cohabiting partner (as defined in regulation 42 of the 2014 Regulations) or any dependant by virtue of a surrender.

(4) If a election under sub-paragraph (1) is made in relation to the benefit in respect of a person who is an active member, or subsequently becomes an active member again—

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—

- (i) of periods of membership before the member left the employment referred to in sub-paragraph (a) of the definition of “relevant benefit” (or, if the member left such an employment more than once, the last time the member left before the commencement date); or
- (ii) of contributions paid in respect of such periods of membership; and

(b) in determining entitlement to, or the amount of, benefit to that extent, the member shall be treated as if the member had never become an active member again at any time after the member so left (but without prejudice to the application of this paragraph),

and these Regulations shall have effect accordingly.

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## EXPLANATORY NOTE

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

These Regulations set out transitional provisions relating to members of the Local Government Pension Scheme 2009 (“the 2009 Scheme”), which is to be replaced by the new Local Government Pension Scheme (“the Scheme”) with effect from 1st April 2015. Their effect is to protect the benefits accrued by members of the 2009 Scheme before 1st April 2015.

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express powers to make regulations retrospective in effect. In these Regulations, certain provisions of Schedule 4 (minor and consequential amendments) are retrospective.

Regulation 1 deals with the citation, commencement and interpretation. Schedule 1 contains definitions of terms used in these Regulations.

Regulation 2 and Schedule 2 revoke, subject to savings, of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009, Local Government

Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (“the 2009 Regulations”) and of a number of subsequent Regulations that amend the 2009 Regulations or made provision dependent on them. It follows that, after 1st April 2015, no person may become a member of the 2009 Scheme or accrue benefits in it (regulation 2(2)).

Regulation 3 preserves the membership and benefits accrued in the previous Schemes.

Regulation 4 ensures that an active member who was within 10 years of normal retirement age under the 2009 Scheme on 1 April 2012 is entitled to draw benefits on retirement which are no less than they would have been able to draw if the 2009 Scheme had continued to exist.

Regulation 5 provides for automatic transfer into the Scheme of persons who are members of the 2009 Scheme on 31 March 2015.

Regulation 6 preserves the status of admission agreements entered into before the Scheme commences, meaning that membership of the Scheme is maintained for employees who became members by virtue of an admission agreement.

Regulation 7 provides that membership of the 2009 Scheme and its predecessor Schemes, and transfers from different pension schemes into those Scheme counts as membership of the Scheme. This is relevant for identifying when members of the Scheme have reached the two year vesting period required to be entitled to benefits under the Scheme.

Regulation 8 identifies elements of remuneration which will not count as pensionable pay under the Scheme.

Regulation 9 makes provision as regards transfers into the Scheme of benefits from other public sector pension schemes.

Regulation 10 sets out a framework for the drawdown of retirement benefits.

Regulation 11 preserves the transitional protection for certain groups as regards ill-health benefits and makes provision for how recipients of ill-health benefits under the 2009 Scheme are dealt with under the Scheme.

Regulation 12 provides for amounts of pension deriving from the 2009 Scheme and its predecessor Schemes taken as a lump sum to be brought into account when the member commutes pension under the Scheme into a lump sum.

Regulations 13 and 14 make provision in respect of contributions and purchase of additional contributions. Arrangements for the purchase of added membership and additional pension entered into before 1 April 2015 are preserved and purchase benefits under the 2009 Scheme.

Regulation 15 makes provision for payments to be taken from benefits accrued under the 2009 Scheme and its predecessor Schemes where appropriate when a member has a tax charge to pay under the Finance Act 2004 (annual allowance).

Regulations 16 and 17 deal with death grants and survivor benefits, respectively, where a deceased member was entitled to benefits under both the 2009 Scheme and the Scheme.

Regulation 18 provides for the continuation of apportionment agreements made under Regulation 33A of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009.

Regulation 19 and Schedule 3 deal with the 85 year rule for qualifying members, enabling them to draw benefits without actuarial reduction when the sum of their age and the number of years’ membership of the Local Government Pension Scheme equals or exceeds 85. This protection is phased out between 2008 and 2020.

Regulation 20 makes provision in respect of pension sharing orders to ensure they have appropriate impact on pre-2015 Scheme benefits.

Regulation 21 provides for the continuity of membership between the 2009 Scheme and the Scheme for councillor members of the Local Government Pension Scheme (Northern Ireland).

Regulation 22 deals with employing authorities obligations to provide information to the Committee to enable it to carry out its functions.

Regulation 23 provides for the procedures for the resolution of disputes under the Scheme to apply in respect of any unresolved disputes under the 2009 Scheme.

Regulation 24 and Schedule 4 deal with minor and consequential amendments.

Regulation 25 and Schedule 5 provide for the continuity of the application of the Scheme provisions and contains general savings and transitional provisions.

A full regulatory impact assessment has not been produced for this Statutory Rule as it has no impact on the cost of businesses, charities or voluntary bodies and does not have a significant financial impact on any public bodies.