Department for Communities
An Roinn Pobal
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Synopsis of Responses and Departmental Response to the consultation on the draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2023

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Synopsis of responses and Departmental response to the consultation on draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2023

Background

1. The Department for Communities (DfC) is the responsible authority for the Local Government Pension Scheme (Northern Ireland) (LGPS (NI)) under the Public Service Pensions Act (Northern Ireland) 2014 (2014 c.2).

2. The LGPS (NI) is a funded pension scheme administered by the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC), a non-departmental public body established in April 1950 to operate a pension scheme for district councils and other admitted bodies in Northern Ireland. The LGPS (NI) is funded by contributions from employers (who have been designated as employing authorities or admitted to the scheme) and their employees. The LGPS (NI) is provided for in a number of statutory rules (as amended), referred to as the LGPS (NI) Regulations.

3. It is DfC's responsibility to update the legislative framework for the LGPS (NI), taking account of developments in broader public sector pension policy.

4. DfC carried out a public consultation from 10 March to 24 March 2023 on proposed amendments to the LGPS (NI) Regulations ("the draft Regulations").

5. The draft Regulations are made under the powers contained in the Public Service Pensions Act (Northern Ireland) 2014. Section 3(3)(b) of that Act provides that scheme Regulations may make retrospective provision.

Section 23 of the Act further provides for a procedure to be followed where retrospective provisions are included which appear to the responsible authority to have significant adverse effects in respect of the pensionable pay to or in respect of members of the scheme. The retrospective provisions contained in the draft Regulations do not appear to the Department to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme, or members of previous schemes. Accordingly, the procedures set out in section 23 of that Act are not applicable in relation to the draft Regulations.

6. DfC received a total of 7 responses. The breakdown was as follows.

Number	Category
5	Employing Authority
1	Scheme Administrator
1	Council

7. Based on the comments received, all respondents support the proposed changes to the Regulations. A breakdown of the responses is given below.

8. The Scheme Advisory Board is responsible for providing advice to the Minister for Communities on making changes to scheme Regulations. The Scheme Advisory Board is chaired by a senior official of the Department and includes 4 members representative of LGPS employers, 4 members representative of employees (nominated by the Northern Ireland Committee of the Irish Congress of Trade Unions (NIC / ICTU)) and 2 advisors from NILGOSC.

9. The Scheme Advisory Board considered the proposed changes to the LGPS (NI) Regulations at their meeting on 9 March and no comments were received.

Summary of the proposed amendments

10. The proposed amendments will change the Local Government Pension Scheme (NI) annual revaluation date from 1 to 6 of April. This is to mitigate against the effect of high inflation on the LGPS (NI) this year and consequent tax liabilities arising as a result. These tax liabilities would arise because the timing of the LGPS (NI) revaluation on 1 April is not aligned with HMRC's process for assessing annual allowance tax charge. The proposed change would bring this into alignment.

11. Currently in the LGPS (NI), the scheme year runs from 1 April to 31 March. The scheme's revaluation occurs on 1 April each year, which is the first day of the LGPS (NI) scheme year. This means that on 1 April each year, active members' career average revalued earnings (CARE) pensions are revalued to take account of the impact of inflation over the previous scheme year. That date is set in the scheme Regulations.

12. The tax year runs 6 April to 5 April and it is the growth in a member's pension over this period (known as the Pension Input Amount (PIA)) which determines if there is a tax liability. A pension may grow in line with inflation (based on the Consumer Price Index (CPI) in the September before the start of the tax year) without contributing to the PIA, but growth in pension above that level is assessed against the annual allowance.

13. The annual allowance is the maximum amount of pension savings an individual can make in any one year before potentially facing tax charges. The annual allowance is currently £40,000 for most people. Typically, a tax liability would arise where growth over the period is more than the annual allowance. Currently the calculation of the pension on 5 April takes account of:

   a. the increase in accrued pension during the tax year due to the additional length of service; and

   b. the increase for inflation through the scheme revaluation process on 1 April, based on CPI during the scheme year.

14. For the tax year 2022/23, a pension may grow 3.1% (based on CPI as at September 2021) without contributing to the PIA, but LGPS(NI) pensions are expected to increase by 10.1% (based on CPI as at September 2022) on 1 April 2023. Individuals may face tax liabilities because the PIA and the LGPS(NI) use CPI figures as at different dates.

15. The proposed amendments would defer future revaluation increases to 6 April, so for example the 10.1% increase would apply from 6 April 2023, during the 2023/24 tax year. For the 2023/24 tax year, a pension may grow by 10.1% (based on CPI as at September 2022) without contributing to the PIA. In short, the LGPS revaluation will be aligned with the tax calculations.

Consumer Price Index (CPI) and its impact on the annual allowance

16. Before 2016/17, the period over which pension growth was measured for tax purposes, the pension input period

(PIP), was the same as the scheme year. The LGPS(NI) revaluation and the inflation growth were allowed without contribution to the PIA because both were aligned, so that the growth in pension for tax purposes reflected on the pensions accrued during the PIP due to employment contributions. Changes made in 2016/17 to require the PIP to be the tax year, not the scheme year, changed the position. From that point, the LGPS(NI) revaluation on 1 April used the CPI figure at the preceding September and the HMRC uplift for that tax year used the CPI figure at the September before the start of the tax year, that is, 18 months before.

17. CPI in September 2022, which is expected to be used for the LGPS(NI) revaluation for the 2022-23 scheme year, was 10.1%. This is markedly higher than CPI in September 2021, used for the HMRC uplift, which was 3.1%. As a result, members would have significantly higher total growth in pension for tax purposes (PIA).

18. Therefore, without changes to scheme Regulations, more LGPS(NI) members will breach the annual allowance threshold and potentially incur a tax charge. This is despite the revaluation merely ensuring that accrued pensions of active members keep pace with changes in prices. Changing scheme Regulations to move the revaluation date from 1 April to 6 April means that inflation would be reflected in the value of the pension after HMRC assess the value of an LGPS pension for the purposes of the annual allowance in tax year 2022/23. Thus, by taking revaluation out of scope of the annual allowance calculation for the 2022/23 tax year, we will reduce the number of members receiving an annual allowance charge for this year.

19. For tax years from 2023/24 onwards, the LGPS (NI) CARE revaluation would be aligned with the inflationary growth allowed for when calculating how much a pension had grown for annual allowance purposes, as it was before 2016/17.

20. For members unaffected by the annual allowance, the proposed change will have no effect on the amount of LGPS(NI) pension benefits they are entitled to on retirement.

Comments received in support of the proposed amendments

21. All responses were supportive of the proposal to change the revaluation date from 1 to 6 April.

22. 5 employing authorities expressed support for the proposed amendments in the Draft Regulations.

23. One council expressed support for the proposed amendments in the Draft Regulations.

24. The Scheme administrator was generally supportive of the proposed amendments in the Draft Regulations. They made comments and suggested some technical amendments to clarify the purpose but these comments did not affect the policy intent of the proposed amendments.

25. None of the responses received identified any further considerations and evidence that they thought should be considered when assessing any equality issues or adverse impacts arising because of these proposed changes.

Departmental Response

26. The Department welcomes the comments from respondents to the proposed amendments to the LGPS (NI) Regulations. All respondents were supportive of the proposed changes and no objections to the Draft Regulations were raised.

27. The Department will make these Regulations as soon as possible and they will have retrospective effect from 1 April 2023.

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