

**DEPARTMENT OF FINANCE AND PERSONNEL**

**PRINCIPAL CIVIL SERVICE PENSION SCHEME  
(AMENDMENT NO.3) SCHEME (NORTHERN IRELAND)  
2014**

**PRINCIPAL CIVIL SERVICE PENSION SCHEME  
(AMENDMENT NO.3) SCHEME (NORTHERN IRELAND) 2014**

The Department of Finance and Personnel makes the following Scheme in exercise of the powers conferred by Articles 3 and 4(4) of the Superannuation (Northern Ireland) Order 1972<sup>(a)</sup> and now vested in it.<sup>(b)</sup> In accordance with Article 3(2) of that Order it has consulted with persons appearing to the Department to represent persons likely to be affected by the Scheme.

**1.**—(1) This scheme may be cited as the Principal Civil Service Pension Scheme (Amendment No.3) Scheme (Northern Ireland) 2014.

(2) This Scheme shall come into operation on 1 May 2014 and shall have effect from 1 May 2014.

**2.** The Principal Civil Service Pension Scheme (Northern Ireland) 1981, made on 20<sup>th</sup> November 1981 shall have effect subject to the amendments listed in the Schedule to this scheme.

**3.** The amendments to this scheme shall have effect from the date on which this scheme comes into operation.

Sealed with the Official Seal of the Department of Finance and Personnel on 11<sup>th</sup> July 2014.

(L.S.)

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<sup>(a)</sup> S.I.1972/1073 (N.I.10), Article 3 has been amended by S.I. 1990/1509 (N.I. 13), Art. 10, 1993 c.49, Sch. 7, para 14 and S.I. 2002/1555, Art. 50

<sup>(b)</sup>By S.R. 1976 No.281 Art.3 and Sch.1 and S.I. 1982/338 (N.I.6) Art.4

*John McKibbin*

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

**SCHEDULE**  
*(with effect from 1<sup>st</sup> May 2014)*

**2002 Section**

**Rule A.1**

In paragraph (4) insert, at the appropriate place—

“Admission Agreement” means the contractual agreement between the Department and the employer of a section 3(3a) eligible person (and which may also be between a 3rd party) relating to participation in the Scheme;” and

“section 3(3a) eligible person” means a person who is eligible to be an active member of this Section of the Scheme by virtue of being a person who is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972;”.

**Rule B.1**

1. In paragraph (1) insert “, or condition D is met,” after “are met”.

2. Insert after paragraph (5)—

“(6) Condition D is that the person—

(a) is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972; and

(b) fulfils the conditions for eligibility specified in J1.1.”.

**Rule B.4**

Insert after paragraph (6)—

“(7) Paragraph (1) is subject to J1.3(3).”.

**Rule C.3**

1. The existing paragraph becomes paragraph (1).

2. Insert after that paragraph

“(2) Each employer must in addition pay to the Scheme—

(a) the annual administration charges;

(b) any other administrative charges; and

(c) the annual accruing superannuation liability charge

at such intervals and at such rates as the Department may from time to time determine which shall, where the employer is the employer of a section 3(3a) eligible person, be as provided for in the Admission Agreement.

- (3) Where the Admission Agreement provides for an employer of a section 3(3a) eligible person to pay additional payments or charges to the Scheme, that employer must make such additional payments or charges as required by the Admission Agreement.”.

### **New rule J.7A**

Insert after rule J.7—

#### **“J.7A Information to be provided by employers**

- (1) Employers must provide the Department with such information as the Department may request—
  - (a) in connection with the Department’s functions in relation to the Scheme or the functions of the Scheme administrator; or
  - (b) to enable the Department to fulfil any obligations on the Department set out in or under legislation

which information must be provided by such date as the Department may specify.

- (2) An employer of a section 3(3a) eligible person must provide to the Department within 30 calendar days of the end of each complete scheme year during which the employer is an employer of a section 3(3a) eligible person—
  - (a) a list of the section 3(3a) eligible persons employed by them, stating whether they are active members of the Scheme or have opted-out of active Scheme membership; and
  - (b) a statement confirming that the persons listed are eligible to be active members of the Scheme.
- (3) An employer of a section 3(3a) eligible person must inform the Department promptly and in any event within 28 days of—
  - (a) any changes to the eligibility of a section 3(3a) eligible person employed by that employer to be an active member of the Scheme, including where such a person ceases to be eligible to be an active member of the Scheme;
  - (b) any change in the—
    - (i) terms and conditions of employment (including working on services other than the transferred services);

- (ii) working pattern or hours; or
- (iii) attendance (including long term sick leave or other absences)

of an active member of the Scheme employed by that employer where the change affects the member's entitlement to benefits under or membership of the Scheme;

- (c) any section 3(3a) eligible person who has opted to cease to be an active member of the Scheme (although remaining eligible to be a member of it); and
  - (d) any matter which may or is likely to affect the employer's ability to meet its obligations under the Admission Agreement or under the Scheme.
- (4) An employer of a section 3(3a) eligible person must inform the Department immediately the employer becomes aware of any circumstance (including any actual or proposed change in the employer's status) which is one which may give rise to the termination of the Admission Agreement.”.

## **New Part J1**

Insert after Part J—

### **“Part J1**

#### **Persons in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972**

##### **J1.1 Conditions for eligibility**

- (1) A person (“P”) who is in service in an employment or office specified in the list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972 (referred to in this rule as “the list”) must meet the following conditions to be eligible to be an active member of this Section of the Scheme—

- (a) P must have been—
  - (i) a member of this Section of the Scheme; or
  - (ii) eligible to be a member of this Section of the Scheme

on or immediately before the date specified in the description of the employment or office in the list, in accordance with regulation 4(1)(a)(ii) of the Superannuation (Specification of Employments and Offices) Regulations 2013<sup>1</sup>, as the date on which persons must be in that employment or office;

- (b) P must be employed to carry out the services specified in the

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<sup>1</sup> S.I. 2013/1564. Regulation 4(1)(a)(ii) requires that the employment or office is described by reference to the date from which persons must be in service in that employment or office.

description of the employment or office in the list (referred to in this Part as the “transferred services”) for more than 50% of P’s time working under the contract to carry out those services;

- (c) P must have been continuously employed to carry out the transferred services since the date referred to in sub-paragraph (a);
  - (d) P must not be an active member of another workplace pension scheme provided by P’s employer in respect of P’s contract to carry out the transferred services; and
  - (e) P must not have signed an agreement with P’s employer in which P voluntarily agrees to waive P’s entitlement to be an active member of the Scheme.
- (2) A person who ceases to meet the conditions specified in paragraph (1) will, from the date that they cease to meet those conditions, cease to be eligible to be an active member of the Scheme in relation to the transferred services by being a section 3(3a) eligible person.
- (3) In determining whether a person is employed to carry out the transferred services for the purposes of determining whether the person meets the condition in paragraph (1)(b)—
- (a) services carried out by a person under another contract are to be disregarded;
  - (b) where the Department has agreed that a person may carry out other services specified in a description of an employment or office in the list these other services shall be treated for the purposes of this rule as if they were transferred services; and
  - (c) time spent carrying out functions associated with the transferred services (such as relevant training) can be treated as time spent carrying out the transferred service.

## **J1.2 Additional Protections for the scheme**

- (1)
- (a) If the final pensionable earnings, calculated in accordance with rule A.4(1), of a section 3(3a) eligible person who is an active member of this Section of the Scheme (“P”) are greater than the specified amount, the Department may require P’s employer to pay to the Scheme on demand such sums, as determined by the Department after consulting the Scheme actuary, which are required to compensate the Scheme for any increase in the Scheme’s costs or liabilities resulting from the

amount by which P's final pensionable earnings are greater than the specified amount.

(b) The specified amount is the greater of—

(i)  $A + a$ ; and

(ii)  $A * b * 1.1$

where—

A is the amount that would be P's final pensionable earnings calculated in accordance with rule A.4(1) had P's last day of qualifying service been the first day of the applicable relevant period;

a is the amount to which £5,000 would have increased at the last day of the applicable relevant period if it had been an official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971 beginning, and first qualifying for increases under that Act, on 1st April 2011; and

b is  $(P1/P2)$

where—

P1 is the index number for the earnings series which applies to the last day of the applicable relevant period;

P2 is the index number for the earnings series which applies to the first day of the applicable relevant period; and

the earning series is the total weekly earnings growth including bonuses but excluding arrears specified in the Average Weekly Earnings index on a seasonally adjusted basis for the public sector excluding financial services published by the Office for National Statistics<sup>2</sup>.

(c) In paragraph (b) the relevant period is

(i) the period starting with the day which is 3 calendar years before P's last day of qualifying service and ending with P's last day of qualifying service; or if P was transferred to a new employer during the period of 4 calendar years before P's last day of qualifying service, the period starting with the day which is 12 months after the day that P transferred to that new employer and ending with P's last day of qualifying service; or

(ii) if P was transferred to a new employer during the period of 12 months before P's last day of qualifying service, the period starting with the day that P transferred to that new employer and ending with P's last day of qualifying service.

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<sup>2</sup> Publication EARN01, Series K54Z or such series as may replace it.



- (2) Where an employer of a section 3(3a) eligible person increases the pensionable earnings of a member of the Scheme employed by them in a way which the Department has determined, in the Employer's Pension Guide or Employer Pension Notices which apply to the Northern Ireland Civil Service pension arrangements, is one where the resulting costs to the Scheme are costs which should be paid by the employer, the employer must pay to the Scheme on demand the amount of the increase in the Scheme's costs or liabilities resulting from the increase.
- (3) Where a section 3(3a) eligible person exercises a choice available to them under the Scheme which leads to an increase in the contributions that the person's employer is required to pay under the Scheme, the employer must pay to the Scheme the amount of the increase in their contributions.
- (4) Where an employer of a section 3(3a) eligible person has breached any of the provisions of the Scheme or any provision of the Admission Agreement, the employer must pay to the Scheme on demand such sums as determined by the Department based on an actuarial valuation, which are required to compensate the Scheme for any increase in the Scheme's costs or liabilities resulting from the breach and for any resulting additional administration expenses incurred by or on behalf of the Scheme.
- (5) Where an employer of a section 3(3a) eligible person has entered into a contractual agreement (whether in the Admission Agreement or otherwise) with the Department to lodge a bond with the Scheme, the Department may call on the bond in the circumstances provided for in the contractual agreement.
- (6) Where the sponsoring Government Department or another body has entered into a contractual agreement (whether in the Admission Agreement or otherwise) to indemnify the Scheme in respect of contributions and other payments due to the Scheme from an employer of a section 3(3a) eligible person, that Department or body must pay to the Scheme on demand by the Department the sums due under the indemnity, in accordance with the provisions of the contractual agreement.

### **J1.3 Application of Rules**

- (1) A.11 has no application where a person ("P") who is a section 3(3a) eligible person ceases to be employed in the employment that qualifies P to be an

active member of the Scheme in that capacity unless after a period not exceeding 6 months P is employed in the Northern Ireland Civil Service or in an office or employment listed in Schedule 1 to the Superannuation (Northern Ireland) Order 1972.

- (2) B.2(d) does not prevent a person (“P”) belonging to another registered scheme to which P’s employer contributes where P’s membership of that scheme relates to services carried out under a contract for services other than the contract to carry out the transferred services.
- (3) B.4(1) does not apply so as to require a person’s first day to be changed following a change in employment as a result of which a person who was an active member of the Scheme is eligible to be an active member as a section 3(3a) eligible person.
- (4) Where an employer of a section 3(3a) eligible person proposes to make an additional contribution under C1.5 (payment of additional contributions by employer or third party contributor) the employer must—
  - (a) give notice in writing to the Department and the Scheme administrator at least three calendar months before the additional contribution is to be made; and
  - (b) pay to the Scheme such additional amounts as determined by the Department, after consulting the Scheme actuary, as are required to compensate the Scheme for any additional costs to the Scheme resulting from the payment of the additional contribution.
- (5) F.13 applies to persons who continue in employment following a re-tender of a contract to the same employer as it applies to persons whose employment is transferred to a new employer.
- (6) Part H (abatement) applies where a person who is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972 who is an active member becomes a pensioner member on becoming entitled to a pension under rule D.1A (partial retirement) in connection with exercising the option under that rule following a change in the terms on which the member holds an employment; and such a person is treated for the purposes of Part H as a re-employed pensioner.”.

## **1972 Section**

### **Rule 1.3**

Insert after “1972” “, or service as a section 3(3a) eligible person”.

### **Rule 1.3a**

Substitute “, 1.3e or 1.3f” for “or 1.3e”.

### **New Rule 1.3f**

Insert after rule 1.3e—

“1.3f A person is eligible to be an active member of this section of the scheme if the person—

- (a) is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972; and
- (b) fulfils the conditions for eligibility specified in rule 17.1.”.

## **Definitions**

Insert after rule 1.13

“1.13A “Admission Agreement” means the contractual agreement between the Department of Finance and Personnel and the employer of a section 3(3a) eligible person (and which may also be between a 3rd party) relating to participation in the Principal Civil Service Pension Scheme (NI).

1.13B “Section 3(3a) eligible person” means a person who is eligible to be an active member of the 1972 Section of the scheme by virtue of being a person who is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972.”.

### **New rule 15.2**

Insert after 15.1—

#### **“15.2                   Employers’ payments**

“(1) Each employer of a civil servant in pensionable service in the scheme must in addition pay to the scheme—

- (a) the annual administration charges;
- (b) any other administrative charges; and
- (c) the annual accruing superannuation liability charge

at such intervals and at such rates as the Department of Finance and Personnel may from time to time determine which shall, where the employer is the employer of a section 3(3a) eligible person, be as provided for in the Admission Agreement.

- (3) Where the Admission Agreement provides for an employer of a section 3(3a) eligible person to pay additional payments or charges to the scheme, that employer must make such additional payments or charges as required by the Admission Agreement.”.

## **New Section 16**

Insert after Section 15—

### **“Section 16: Information to be provided by employers**

16.1 Employers must provide the Department of Finance and Personnel with such information as the Department of Finance and Personnel may request —

- (a) in connection with the Department of Finance and Personnel’s functions in relation to the scheme or the functions of the scheme administrator; or
- (b) to enable the Department of Finance and Personnel to fulfil any obligations on the Department of Finance and Personnel set out in or under legislation

which information must be provided by such date as the Department of Finance and Personnel may specify.

16.2 An employer of a section 3(3a) eligible person must provide to the Department of Finance and Personnel within 30 calendar days of the end of each complete scheme year during which the employer is an employer of a section 3(3a) eligible person—

- (a) a list of the section 3(3a) eligible persons employed by them, stating whether they are active members of the scheme or have opted-out of active scheme membership; and
- (b) a statement confirming that the persons listed are eligible to be active members of the scheme.

16.3 An employer of a section 3(3a) eligible person must inform the Department of Finance and Personnel promptly and in any event within 28 days of—

- (a) any changes to the eligibility of a section 3(3a) eligible person employed by that employer to be an active member of the scheme, including where such a person ceases to be eligible to be an active member of the scheme;

- (b) any change in the—
  - (i) terms and conditions of employment (including working on services other than the transferred services);
  - (ii) working pattern or hours; or
  - (iii) attendance (including long terms sick leave or other absences)

of an active member of the scheme employed by that employer where the change affects the member's entitlement to benefits under or membership of the scheme;
- (c) any section 3(3a) eligible person who has opted to cease to be an active member of the scheme (although remaining eligible to be a member of it); and
- (d) any matter which may or is likely to affect the employer's ability to meet its obligations under the Admission Agreement or under the scheme.

16.4 An employer of a section 3(3a) eligible person must inform the Department of Finance and Personnel immediately the employer becomes aware of any circumstance (including any actual or proposed change in the employer's status) which is one which may give rise to the termination of the Admission Agreement.”.

## **New Section 17**

Insert after Section 16—

### **“Section 17: Persons in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the superannuation (Northern Ireland) Order 1972**

#### **17.1 Conditions for eligibility**

- (1) A person (“P”) who is in service in an employment or office specified in the list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972 (referred to in this rule as “the list”) must meet the following conditions to be eligible to be an active member of the 1972 Section—
  - (a) P must have been—
    - (i) a member of the 1972 Section; or
    - (ii) eligible to be a member of the 1972 Section

on or immediately before the date specified in the description of the employment or office in the list, in accordance with regulation 4(1)(a)(ii) of the Superannuation (Specification of Employments and Offices) Regulations 2013<sup>3</sup>, as the date on which persons must be in that employment or office;

- (b) P must be employed to carry out the services specified in the description of the employment or office in the list (referred to in this Part as the “transferred services”) for more than 50% of P’s time working under the contract to carry out those services;
  - (c) P must have been continuously employed to carry out the transferred services since the date referred to in sub-paragraph (a);
  - (d) P must not be an active member of another workplace pension scheme provided by P’s employer in respect of P’s contract to carry out the transferred services; and
  - (e) P must not have signed an agreement with P’s employer in which P voluntarily agrees to waive P’s entitlement to be an active member of the scheme.
- (2) A person who ceases to meet the conditions specified in paragraph (1) will, from the date that they cease to meet those conditions, cease to be eligible to be an active member of the scheme in relation to the transferred services by being a section 3(3a) eligible person.
- (3) In determining whether a person is employed to carry out the transferred services for the purposes of determining whether the person meets the condition in paragraph (1)(b)—
- (a) services carried out by a person under another contract are to be disregarded;
  - (b) where the Department of Finance and Personnel has agreed that a person may carry out other services specified in a description of an employment or office in the list these other services shall be treated for the purposes of this rule as if they were transferred services; and
  - (c) time spent carrying out functions associated with the transferred services (such as relevant training) can be treated as time spent carrying out the transferred service.

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<sup>3</sup> S.I. 2013/1564. Regulation 4(1)(a)(ii) requires that the employment or office is described by reference to the date from which persons must be in service in that employment or office.

## 17.2 Additional Protections for the scheme

(1)

(a) If the pensionable earnings, calculated in accordance with rule 1.6a, of a section 3(3a) eligible person who is an active member of the 1972 Section of the scheme (“P”) are greater than the specified amount, the Department of Finance and Personnel may require P’s employer to pay to the scheme on demand such sums, as determined by the Department of Finance and Personnel after consulting the Scheme Actuary, which are required to compensate the scheme for any increase in the scheme’s costs or liabilities resulting from the amount by which P’s pensionable earnings are greater than the specified amount.

(b) The specified amount is the greater of

(i)  $A + a$ ; and

(ii)  $A * b * 1.1$

where—

A is the amount that would be P’s pensionable earnings calculated in accordance with rule 1.6a had P’s last day of qualifying service been the first day of the applicable relevant period;

a is the amount to which £5,000 would have increased at the last day of the applicable relevant period if it had been an official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971 beginning, and first qualifying for increases under that Act, on 1st April 2011; and

b is  $(P1/P2)$

where—

P1 is the index number for the earnings series which applies to the last day of the applicable relevant period;

P2 is the index number for the earnings series which applies to the first day of the applicable relevant period; and

the earning series is the total weekly earnings growth including bonuses but excluding arrears specified in the Average Weekly Earnings index on a seasonally adjusted basis for the public sector

excluding financial services published by the Office for National Statistics<sup>4</sup>.

- (c) In paragraph (b) the relevant period is—
- (i) the period starting with the day which is 3 calendar years before P's last day of qualifying service and ending with P's last day of qualifying service; or
  - (ii) if P was transferred to a new employer during the period of 4 calendar years before P's last day of qualifying service, the period starting with the day which is 12 months after the day that P transferred to that new employer and ending with P's last day of qualifying service; or
  - (iii) if P was transferred to a new employer during the period of 12 months before P's last day of qualifying service, the period starting with the day that P transferred to that new employer and ending with P's last day of qualifying service.
- (2) Where an employer of a section 3(3a) eligible person increases the salary (or wages) or pensionable emoluments of a member of the scheme employed by them in a way which the Department of Finance and Personnel has determined, in the Employer's Pension Guide or Employer Pension Notices which apply to the Northern Ireland Civil Service pension arrangements, is one where the resulting costs to the scheme are costs which should be paid by the employer, the employer must pay to the scheme on demand the amount of the increase in the scheme's costs or liabilities resulting from the increase.
- (3) Where a section 3(3a) eligible person exercises a choice available to them under the scheme which leads to an increase in the contributions that the person's employer is required to pay under the scheme, the employer must pay to the scheme the amount of the increase in their contributions.
- (4) Where an employer of a section 3(3a) eligible person has breached any of the provisions of the scheme or any provision of the Admission Agreement, the employer must pay to the scheme on demand such sums as determined by the Department of Finance and Personnel based on an actuarial valuation, which are required to compensate the scheme for any increase in the scheme's costs or liabilities resulting from the breach and for any resulting additional administration expenses incurred by or on behalf of the scheme.
- (5) Where an employer of a section 3(3a) eligible person has entered into a contractual agreement (whether in the

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<sup>4</sup> Publication EARN01, Series K54Z or such series as may replace it.



Admission Agreement or otherwise) with the Department of Finance and Personnel to lodge a bond with the scheme, the Department of Finance and Personnel may call on the bond in the circumstances provided for in the contractual agreement.

- (6) Where the sponsoring Government Department or another body has entered into a contractual agreement (whether in the Admission Agreement or otherwise) to indemnify the scheme in respect of contributions and other payments due to the scheme from an employer of a section 3(3a) eligible person, that Department or body must pay to the scheme on demand by the Department of Finance and Personnel the sums due under the indemnity, in accordance with the provisions of the contractual agreement.

### **17.3 Application of Rules**

- (1) Where an employer of a section 3(3a) eligible person proposes to make an additional contribution under rule 14.6 the employer must—
  - (a) give notice in writing to the Department of Finance and Personnel and the Scheme administrator at least three calendar months before the additional contribution is to be made; and
  - (b) pay to the Department of Finance and Personnel such additional amounts as determined by the Department of Finance and Personnel, after consulting the Scheme Actuary, as are required to compensate the Scheme for any additional costs to the Scheme resulting from the payment of the additional contribution.”.

## **2007 Section**

### **Rule A.1**

In paragraph (4) insert, at the appropriate place—

“Admission Agreement” means the contractual agreement between the Department and the employer of a section 3(3a) eligible person (and which may also be between a 3rd party) relating to participation in the Scheme;”  
and

“section 3(3a) eligible person” means a person who is eligible to be an active member of this Section of the Scheme by virtue of being a person who is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972;”.

### **Rule B.1**

1. In paragraph (1) insert “, or condition E is met,” after “C are met”.

2. Insert after paragraph (8)—

“(9) Condition E is that the person—

- (a) is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972; and
- (b) fulfils the conditions for eligibility specified in L.1.”.

### **Rule B.2**

In paragraph (d) insert, after “contributes”, “subject to L.3(1)”.

### **Rule D.3**

1. Insert after paragraph (3)—

“(4) Each employer must in addition pay to the Scheme—

- (a) the annual administration charges;
- (b) any other administrative charges; and
- (c) the annual accruing superannuation liability charge

at such intervals and at such rates as the Department may from time to time determine which shall, where the employer is the employer of a section 3(3a) eligible person, be as provided for in the Admission Agreement.

(5) Where the Admission Agreement provides for an employer of a section 3(3a) eligible person to pay additional payments or charges to the Scheme, that

employer must make such additional payments or charges as required by the Admission Agreement.”.

### **New rule K.7A**

Insert after rule K.7—

#### **“K.7A Information to be provided by employers**

- (1) Employers must provide the Department with such information as the Department may request—
  - (a) in connection with the Department’s functions in relation to the Scheme or the functions of the Scheme administrator; or
  - (b) to enable the Department to fulfil any obligations on the Department set out in or under legislation

which information must be provided by such date as the Department may specify.

- (2) An employer of a section 3(3a) eligible person must provide to the Department within 30 calendar days of the end of each complete Scheme year during which the employer is an employer of a section 3(3a) eligible person—
  - (a) a list of the section 3(3a) eligible persons employed by them, stating whether they are active members of the Scheme or have opted-out of active Scheme membership; and
  - (b) a statement confirming that the persons listed are eligible to be active members of the Scheme.
- (3) An employer of a section 3(3a) eligible person must inform the Department promptly and in any event within 28 days of—
  - (a) any changes to the eligibility of a section 3(3a) eligible person employed by that employer to be an active member of the Scheme, including where such a person ceases to be eligible to be an active member of the Scheme;
  - (b) any change in the—
    - (i) terms and conditions of employment (including working on services other than the transferred services);
    - (ii) working pattern or hours; or
    - (iii) attendance (including long terms sick leave or other absences)

of an active member of the Scheme employed by that employer where the change affects the member's entitlement to benefits under or membership of the Scheme;

- (c) any section 3(3a) eligible person who has opted to cease to be an active member of the Scheme (although remaining eligible to be a member of it); and
  - (d) any matter which may or is likely to affect the employer's ability to meet its obligations under the Admission Agreement or under the Scheme.
- (4) An employer of a section 3(3a) eligible person must inform the Department immediately it becomes aware of any circumstance (including any actual or proposed change in the employer's status) which is one which may give rise to the termination of the Admission Agreement.”.

## **New Part L**

Insert after Part K—

### **“Part L**

#### **Persons in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the superannuation (Northern Ireland) Order 1972**

##### **L.1 Conditions for eligibility**

- (1) A person (“P”) who is in service in an employment or office specified in the list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972 (referred to in this rule as “the list”) must meet the following conditions to be eligible to be an active member of this Section of the Scheme—
- (a) P must have been—
    - (i) a member of this Section of the Scheme; or
    - (ii) eligible to be a member of this Section of the Schemeon or immediately before the date specified in the description of the employment or office in the list, in accordance with regulation 4(1)(a)(ii) of the Superannuation (Specification of Employments and Offices) Regulations 2013<sup>5</sup>, as the date on which persons must be in that employment or office;
  - (b) P must be employed to carry out the services specified in the description of the employment or office in the list (referred to in this Part as the “transferred services”) for more than 50% of P's time working under the contract to carry out those services;

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<sup>5</sup> S.I. 2013/1564. Regulation 4(1)(a)(ii) requires that the employment or office is described by reference to the date from which persons must be in service in that employment or office.

- (c) P must have been continuously employed to carry out the transferred services since the date referred to in sub-paragraph (a);
  - (d) P must not be an active member of another workplace pension scheme provided by P's employer in respect of P's contract to carry out the transferred services; and
  - (e) P must not have signed an agreement with P's employer in which P voluntarily agrees to waive P's entitlement to be an active member of the Scheme.
- (2) A person who ceases to meet the conditions specified in paragraph (1) will, from the date that they cease to meet those conditions, cease to be eligible to be an active member of the Scheme in relation to the transferred services by being a section 3(3a) eligible person.
- (3) In determining whether a person is employed to carry out the transferred services for the purposes of determining whether the person meets the condition in paragraph (1)(b)—
- (a) services carried out by a person under another contract are to be disregarded;
  - (b) where the Department has agreed that a person may carry out other services specified in a description of an employment or office in the list these other services shall be treated for the purposes of this rule as if they were transferred services; and
  - (c) time spent carrying out functions associated with the transferred services (such as relevant training) can be treated as time spent carrying out the transferred service.

## **L.2 Additional Protections for the scheme**

- (1)
- (a) If the final pensionable earnings, calculated in accordance with rule A.9, of a section 3(3a) eligible person who is an active member of this Section of the scheme ("P") and to whom rules E.14 or E.15 apply are greater than the specified amount, the Department may require P's employer to pay to the Scheme on demand such sums, as determined by the Department after consulting the Scheme Actuary, which are required to compensate the Scheme for any increase in the Scheme's costs or liabilities resulting from the amount by which P's final pensionable earnings are greater than the specified amount.
  - (b) The specified amount is the greater of—

(i)  $A + a$ ; and

(ii)  $A * b * 1.1$

where—

A is the amount that would be P's final pensionable earnings calculated in accordance with rule A.9 had P's last day of qualifying service been the first day of the applicable relevant period;

a is the amount to which £5,000 would have increased at the last day of the applicable relevant period if it had been an official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971 beginning, and first qualifying for increases under that Act, on 1st April 2011; and

b is  $(P1/P2)$

where—

P1 is the index number for the earnings series which applies to the last day of the applicable relevant period;

P2 is the index number for the earnings series which applies to the first day of the applicable relevant period; and

the earning series is the total weekly earnings growth including bonuses but excluding arrears specified in the Average Weekly Earnings index on a seasonally adjusted basis for the public sector excluding financial services published by the Office for National Statistics<sup>6</sup>.

(c) In paragraph (b) the relevant period is—

(i) the period starting with the day which is 3 calendar years before P's last day of qualifying service and ending with P's last day of qualifying service; or

(ii) if P was transferred to a new employer during the period of 4 calendar years before P's last day of qualifying service, the period starting with the day which is 12 months after the day that P transferred to that new employer and ending with P's last day of qualifying service; or

(iii) if P was transferred to a new employer during the period of 12 months before P's last day of qualifying service, the period starting with the day that P transferred to that new employer and ending with P's last day of qualifying service.

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<sup>6</sup> Publication EARN01, Series K54Z or such series as may replace it.

- (2) Where an employer of a section 3(3a) eligible person increases the pensionable earnings of a member of the Scheme employed by them in a way which the Department has determined, in the Employer's Pension Guide or Employer Pension Notices which apply to the Northern Ireland Civil Service pension arrangements, is one where the resulting costs to the Scheme are costs which should be paid by the employer, the employer must pay to the Scheme on demand the amount of the increase in the Scheme's costs or liabilities resulting from the increase.
- (3) Where a section 3(3a) eligible person exercises a choice available to them under the Scheme which leads to an increase in the contributions that the person's employer is required to pay under the Scheme, the employer must pay to the Scheme the amount of the increase in their contributions.
- (4) Where an employer of a section 3(3a) eligible person has breached any of the provisions of the Scheme or any provision of the Admission Agreement, the employer must pay to the Scheme on demand such sums as determined by the Department based on an actuarial valuation, which are required to compensate the Scheme for any increase in the Scheme's costs or liabilities resulting from the breach and for any resulting additional administration expenses incurred by or on behalf of the Scheme.
- (5) Where an employer of a section 3(3a) eligible person has entered into a contractual agreement (whether in the Admission Agreement or otherwise) with the Department to lodge a bond with the Scheme, the Department may call on the bond in the circumstances provided for in the contractual agreement.
- (6) Where the sponsoring Government Department or another body has entered into a contractual agreement (whether in the Admission Agreement or otherwise) to indemnify the Scheme in respect of contributions and other payments due to the Scheme from an employer of a section 3(3a) eligible person, that Department or body must pay to the Scheme on demand by the Department the sums due under the indemnity, in accordance with the provisions of the contractual agreement.

### **L.3 Application of Rules**

- (1) B.2(d) does not prevent a person ("P") belonging to another registered scheme to which P's employer contributes where P's membership of that scheme relates to services carried out under a contract for services other than the contract to carry out the transferred services.
- (2) B.4(1) does not apply so as to require a person's first day to be changed following a change in employment as a result of which a person who was an active member of the Scheme is eligible to be an active member as a section 3(3a) eligible person.

- (3) Where an employer of a section 3(3a) eligible person proposes to make an additional contribution under D.8 (payment of additional contributions by employer or third party contributor) the employer must—
  - (a) give notice in writing to the Department and the Scheme administrator at least three calendar months before the additional contribution is to be made; and
  - (b) pay to the Scheme such additional amounts as determined by the Department, after consulting the Scheme actuary, as are required to compensate the Scheme for any additional costs to the Scheme resulting from the payment of the additional contribution.
- (4) F.13 applies to persons who continue in employment following a re-tender of a contract to the same employer as it applies to persons whose employment is transferred to a new employer.
- (5) Part J (abatement) applies where a person who is in service in an employment or office specified in a list produced for the purposes of section 3(3a) of the Superannuation (Northern Ireland) Order 1972 who is an active member becomes a pensioner member on becoming entitled to a pension under rule E.4 (partial retirement) in connection with exercising the option under that rule following a change in the terms on which the member holds an employment; and such a person is treated for the purposes of Part J as a re-employed pensioner.”.



## **EXPLANATORY NOTE**

*(This Explanatory Note does not form part of the Scheme)*

The Schedule to this Scheme amends the rules of the Principal Civil Service Pension Scheme (Northern Ireland) (“PCSPS(NI)”) from 1<sup>st</sup> May 2014.

Schedule 9 to the Public Service Pensions Act (Northern Ireland) 2014 amends Article 3 of the Superannuation (Northern Ireland) Order 1972 (the 1972 Order), and inserts new Article 3A, so as to extend the provisions regarding access to schemes made under Article 3 of that Order (superannuation schemes as respects civil servants, etc). The amendments enable the PCSPS(NI) to comply with the revised Fair Deal guidance as set out in the HM Treasury paper Fair Deal for Staff Pensions: Staff Transfers from Central Government (October 2013), which provides that in future staff who are compulsorily transferred from the public sector under TUPE and when staff move by way of a non-voluntary transfer to a public service mutual or to other new models of public service delivery they will retain access to their current employer’s pension arrangements. The amendments to the 1972 Order allow public sector employees who are or are eligible to be active members of the PCSPS(NI) and who experience a compulsory transfer to remain in the PCSPS(NI) when they transfer employer.

The amendments made by the Schedule to this Scheme make the changes to the 2002 (known as “premium”), 1972 (known as “classic”) and 2007 (known as “nuvos”) Sections of the PCSPS(NI) required to allow staff transferred from the public sector to remain members of the PCSPS(NI), in accordance with the revised Fair Deal guidance. In particular they make provision for the conditions for eligibility of such staff to remain an active member of the PCSPS(NI), for payments to be made to the PCSPS(NI) by employers, for information to be provided by employers and for additional protections for the PCSPS(NI).