1992 No. 90

ELECTRICITY

Electricity (Transfer of Assets and Liabilities) Pensions Regulations (Northern Ireland) 1992

Made	*5th March 1992*
Coming into operation . .	*1st April 1992*

The Department of Economic Development, in exercise of the powers conferred on it by Article 89 of, and paragraphs 3 and 8 of Schedule 11 to, the Electricity (Northern Ireland) Order 1992(**a**) and of every other power enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Electricity (Transfer of Assets and Liabilities) Pensions Regulations (Northern Ireland) 1992 and shall come into operation on 1st April 1992.

Interpretation

2.—(1) In these Regulations—

"the 1975 Order" means the Social Security Pensions (Northern Ireland) Order 1975(**b**);

"the 1992 Order" means the Electricity (Northern Ireland) Order 1992;

"accrued rights" means the rights to which an employee has become entitled while a member of, or as a consequence of membership of, the scheme immediately prior to the transfer date;

"contracted out" means the subject of a contracting-out certificate issued under regulations made under Article 33 of the 1975 Order;

"guaranteed minimum pension" has the meaning given in the 1975 Order;

"receiving scheme" means a retirement benefits scheme which is established at the direction of the Department by either—

(*a*) a successor company other than Northern Ireland Electricity plc which employs one or more transferring employees ("Company A"); or

(*b*) another successor company other than Northern Ireland Electricity plc with which Company A is associated;

"retirement benefits scheme" has the meaning given to it by section 611 of the Income and Corporation Taxes Act 1988(**c**);

(a) S.I. 1991/231 (N.I. 1)
(b) S.I. 1975/1503 (N.I. 15)
(c) 1988 c. 1

"transferring employee" means a person who becomes employed by a successor company other than Northern Ireland Electricity plc in pursuance of Article 69(4) of the 1992 Order.

(2) For the purposes of these Regulations one body corporate shall be treated as associated with another if—

(*a*) one of them is a subsidiary of the other; or

(*b*) both of them are subsidiaries of the same holding company;

and "holding company" and "subsidiary" shall have the same meaning as in Article 4 of the Companies (Northern Ireland) Order 1986(**a**).

Transfer of members

3.—(1) The provisions of these Regulations shall apply in respect of transferring employees.

(2) Subject to paragraph (3) each transferring employee shall on the transfer date cease to be a member of the scheme and shall forthwith become a member of a receiving scheme and thereupon—

(*a*) the trustees of the receiving scheme shall in lieu of the trustees of the scheme be liable to the transferring employee in respect of accrued rights; and

(*b*) the trustees and the Committee of Management of the scheme shall be discharged from all and any liability in respect of the accrued rights for the transferring employee.

(3) The provisions of paragraph (2) shall not apply in respect of guaranteed minimum pensions until the receiving scheme to which the transfer is to be made is contracted out.

Division of the assets of the scheme

4.—(1) Subject to paragraphs (2) and (4) the transfer amount to be made to each receiving scheme in accordance with regulation 5 shall be calculated as at the transfer date by applying the ratio $\frac{TA}{TL}$ to the market value of the assets of the scheme at 31st March 1992 as stated in audited accounts of the scheme for the period ending 31st March 1992 where—

(*a*) TA is the value at the transfer date of the accrued rights (other than those relating to voluntary contributions) in the scheme of the members whose accrued rights are to be transferred into the receiving scheme by virtue of regulation 3; and

(*b*) TL is the value at the transfer date of the total of the liabilities of the scheme (other than those relating to voluntary contributions) including, without prejudice to the generality of the foregoing, the value of—

(i) the accrued rights for all employees who are members of the scheme at the transfer date;

(ii) the liability to continue paying all pensions in payment at the transfer date; and

(**a**) S.I. 1986/1032 (N.I. 6); Article 4 was substituted by Article 62(1) of S.I. 1990/1504 (N.I. 10)

(iii) the liability at the transfer date to make any payment at a future date in respect of accrued service whether or not contingently upon the happening of any event.

(2) The transfer amount obtained under paragraph (1) shall be adjusted—

(*a*) so that the costs of carrying out the apportionment shall be borne by the scheme and the receiving schemes in proportion to the division of assets; and

(*b*) to take account of payments due from debtors or due to creditors at the transfer date.

(3) The value of the accrued rights and the liabilities referred to in paragraph (1) is to be calculated in accordance with the methods and assumptions set out in Schedule 1.

(4) For the purposes of the calculation to be made under paragraph (1) voluntary contributions and the investments or monies representing such contributions and any income derived therefrom shall—

(i) be disregarded; and

(ii) in so far as they relate to any person not be divided in accordance with this regulation but shall be transferred to the trustees of the receiving scheme to which that person's accrued rights are transferred pursuant to regulation 3 as voluntary contributions of that person.

Transfer of assets from the scheme

5.—(1) Subject to paragraph (3) the trustees of the scheme shall before the specified date transfer to the trustees of the receiving scheme assets determined in accordance with paragraph (2).

(2) The assets to be transferred to the trustees of a receiving scheme shall comprise either—

(*a*) an equal proportion of each of the assets of the scheme at the transfer date (excluding real property); or

(*b*) such assets of the scheme (including without limitation cash) as the trustees of that receiving scheme may agree with the trustees of the scheme,

equal in total as at the transfer date to the transfer amount calculated for that receiving scheme in accordance with and subject to the provisions of regulation 4 less the amount of any interim transfer payment made under paragraph (3) or otherwise.

(3) The trustees of a receiving scheme may request in writing at any time after the transfer date and prior to the specified date an interim transfer payment consisting of not more than 40% of what the actuary to the scheme estimates will be the transfer amount when calculated in accordance with and subject to the provisions of regulation 4 and the trustees of the scheme shall within thirty days of receipt of such written request transfer to the trustees of the receiving scheme an interim transfer payment which shall comprise either—

(*a*) an equal proportion of each of the assets of the scheme at the transfer date (excluding real property); or

(*b*) such assets of the scheme (including without limitation cash) as the trustees of the receiving scheme may agree with the trustees of the scheme,

equal in total as at the transfer date to the percentage of the estimated transfer amount so requested.

(4) In this regulation the specified date shall be the date which falls—

(*a*) 12 months after the transfer date; or

(*b*) three months after a determination of the Department made under regulation 6 in respect of a dispute relating to the transfer in question; or

(*c*) in respect of the proportion of the transfer amount representing guaranteed minimum pensions (such proportion being the ratio $\frac{TA(GMP)}{TA}$ where TA is as calculated in paragraph (1)(*a*) of regulation 4 and TA(GMP) is that part of TA representing the guaranteed minimum pensions) 14 days after the trustees of the scheme are informed in writing by the trustees of the receiving scheme that the receiving scheme is contracted out,

whichever is the latest.

(5) The transfers made under this regulation shall be adjusted to include the receipt of interest payments and investment income upon the assets to be transferred between the transfer date and the date at which the assets are actually transferred to the receiving scheme on the basis set out in Schedule 2 such adjustment to be paid in cash unless otherwise agreed by the trustees of the scheme with the trustees of the receiving scheme.

Disputes

6. Any dispute that is not resolved between the trustees of the scheme and the trustees of a receiving scheme in connection with the transfer to be made in accordance with regulations 4 and 5 shall be referred to the Department by either party for determination.

Regulations not to affect other duties under the 1992 Order

7. Nothing in these Regulations and no act done under or in consequence of them shall affect any other duty or obligation of any party under regulations made under paragraph 4 of Schedule 11 to the 1992 Order.

Sealed with the Official Seal of the Department of Economic Development on 5th March 1992.

(L.S.) *W. D. Duncan*
Assistant Secretary

SCHEDULE 1 Regulation 4(3)

Calculation of the value of accrued rights and liabilities for the purposes of regulation 4

1. The value of liabilities shall be determined in accordance with the principles described as the 'Projected Accrued Benefit Method' in the 1988 edition of the document entitled "Pension Fund Terminology: Specimen Descriptions of Commonly Used Valuation Methods" published by the Institute of Actuaries and the Faculty of Actuaries.

2. Benefits to be valued shall include a notional lump sum payable on death before retirement of three eightieths of final salary for each year of pensionable service.

3. Service enhancements on death in service and ill-health retirement in accordance with the rules of the scheme shall be ignored.

4. The valuation shall make use of the following actuarial assumptions—

(*a*) the valuation rate of interest (net of expenses) shall be 9 per cent. per annum;

(*b*) salaries shall be taken to be increased by 7 per cent. per annum before allowing for increases due to promotion or seniority, guaranteed minimum pensions shall be assumed to be revalued to state pension age at the same rate;

(*c*) pensions in payment shall increase at 5·5 per cent. per annum on that part in excess of the guaranteed minimum pension;

(*d*) the scheme shall bear the cost of increases at a rate of 3 per cent. per annum on that part of the guaranteed minimum pensions in payment which accrued after 5th April 1988;

(*e*) preserved pension and lump sum benefits in respect of members who have left service before retirement age shall be assumed to increase during deferment at 5·5 per cent. per annum;

(*f*) salaries shall be assumed to increase as a result of promotion and seniority in accordance with the scales given in columns 1, 2 and 3 of the Table;

(*g*) the probability of a contributing member dying while accruing service in the scheme shall be assumed to be in accordance with the rates given in columns 4, 5 and 6 of the Table;

(*h*) the probability of a contributing member retiring on ill-health grounds while accruing service in the scheme shall be assumed to be in accordance with the rates given in columns 7, 8 and 9 of the Table;

(*i*) no allowance shall be made for future voluntary resignation from service;

(*j*) all retirements other than those arising on ill-health shall be assumed to take place on attaining age 63 except for women who joined the scheme before 1st April 1988 who shall be assumed to retire on attaining age 60;

(*k*) the probability of a member with preserved pension rights at the transfer date dying before those benefits come into payment shall be assumed to be in accordance with columns 4, 5 and 6 of the Table;

(*l*) preserved benefits at the transfer date shall be assumed to come into payment on attaining the following ages—

(i) 50 or 55 as appropriate for those subject to rule 18(B) of the scheme;

(ii) 65 for other males who left service before 1st April 1988;

(iii) 60 for other females who left service before 1st April 1988 or left subsequently having previously opted for a retirement age of 60; and

(iv) 63 in all other cases;

(*m*) pensioners' mortality shall be based on the table PA(90) published in 1979 by the Institute of Actuaries and the Faculty of Actuaries with the following age adjustments—

(i) Expected mortality of contributors after subsequent retirement—

Males retiring on ill-health grounds:	+7 Years of age
Males retiring on other grounds:	−1 Year of age
Females retiring on ill-health grounds:	+5 Years of age
Females retiring on other grounds:	−1 Year of age

Spouses, widows and widowers shall be assumed to experience the same mortality appropriate to their sex as those retiring on grounds other than ill-health;

(ii) Expected mortality of those with preserved pension rights at the transfer date—

Males:	−1 Year of age
Females:	−1 Year of age

Spouses, widows and widowers shall be assumed to experience the same mortality appropriate to their sex;

(iii) Expected mortality of those receiving pensions at the transfer date—

Males retired on ill-health grounds:	+8 Years of age
Other males:	unadjusted
Females retired on ill-health grounds:	+6 Years of age
Other females:	unadjusted

Spouses, widows and widowers shall be assumed to experience the same mortality appropriate to their sex as those retiring on grounds other than ill-health;

(*n*) 85 per cent. of contributing members or members with preserved pension rights at the transfer date shall be assumed to be married at retirement or earlier death, 75 per cent. of those former members with pensions in payment at the transfer date shall be assumed to be married at that date; and

(*o*) wives shall be assumed to be two years younger than their husbands.

TABLE

Age	*Salary Progression arising from Seniority and Promotional Increases*			*Probability of Dying in Service or in Deferment*			*Probability of Retiring with Ill-Health Benefits*		
	Male Staff (1)	*Male Manuals* (2)	*Females* (3)	*Male Staff* (4)	*Male Manuals* (5)	*Females* (6)	*Male Staff* (7)	*Male Manuals* (8)	*Females* (9)
18	0·55	1·00	0·71	0·0006	0·0010	0·0002	0·0000	0·0013	0·0000
19	0·55	1·00	0·71	0·0008	0·0009	0·0002	0·0000	0·0013	0·0000
20	0·55	1·00	0·71	0·0011	0·0009	0·0002	0·0001	0·0013	0·0000
21	0·66	1·00	0·77	0·0010	0·0008	0·0003	0·0001	0·0013	0·0000
22	0·75	1·00	0·83	0·0009	0·0008	0·0003	0·0001	0·0014	0·0000
23	0·84	1·00	0·89	0·0009	0·0008	0·0003	0·0001	0·0014	0·0001
24	0·92	1·00	0·95	0·0008	0·0007	0·0003	0·0001	0·0015	0·0001
25	1·00	1·00	1·00	0·0008	0·0007	0·0003	0·0002	0·0015	0·0001
26	1·07	1·00	1·06	0·0008	0·0007	0·0003	0·0002	0·0017	0·0002
27	1·14	1·00	1·11	0·0007	0·0007	0·0003	0·0002	0·0017	0·0002
28	1·20	1·00	1·16	0·0007	0·0006	0·0003	0·0002	0·0020	0·0003
29	1·26	1·00	1·20	0·0007	0·0006	0·0004	0·0002	0·0020	0·0003
30	1·32	1·00	1·24	0·0007	0·0007	0·0004	0·0003	0·0021	0·0004
31	1·36	1·00	1·28	0·0006	0·0007	0·0004	0·0003	0·0026	0·0006
32	1·41	1·00	1·31	0·0006	0·0007	0·0004	0·0003	0·0029	0·0008
33	1·45	1·00	1·35	0·0007	0·0007	0·0005	0·0003	0·0033	0·0012
34	1·49	1·00	1·39	0·0007	0·0008	0·0005	0·0003	0·0036	0·0014
35	1·53	1·00	1·41	0·0007	0·0009	0·0006	0·0003	0·0039	0·0018
36	1·56	1·00	1·44	0·0007	0·0009	0·0006	0·0006	0·0044	0·0020
37	1·60	1·00	1·46	0·0008	0·0010	0·0006	0·0006	0·0047	0·0024
38	1·62	1·00	1·49	0·0009	0·0011	0·0007	0·0006	0·0051	0·0026
39	1·66	1·00	1·52	0·0009	0·0013	0·0008	0·0009	0·0056	0·0030
40	1·69	1·00	1·54	0·0010	0·0014	0·0008	0·0012	0·0062	0·0032

41	1·73	1·00	1·57	0·0011	0·0016	0·0009	0·0015	0·0071	0·0036
42	1·75	1·00	1·59	0·0013	0·0018	0·0010	0·0018	0·0080	0·0038
43	1·78	1·00	1·62	0·0014	0·0021	0·0011	0·0021	0·0087	0·0042
44	1·81	1·00	1·64	0·0016	0·0023	0·0012	0·0024	0·0093	0·0044
45	1·83	1·00	1·67	0·0018	0·0026	0·0013	0·0027	0·0102	0·0048
46	1·85	1·00	1·69	0·0021	0·0030	0·0014	0·0030	0·0114	0·0054
47	1·87	1·00	1·71	0·0023	0·0034	0·0015	0·0036	0·0126	0·0060
48	1·90	1·00	1·74	0·0026	0·0038	0·0017	0·0042	0·0141	0·0070
49	1·92	1·00	1·76	0·0030	0·0043	0·0018	0·0048	0·0155	0·0080
50	1·95	1·00	1·78	0·0034	0·0048	0·0020	0·0057	0·0173	0·0092
51	1·97	1·00	1·80	0·0038	0·0054	0·0022	0·0066	0·0195	0·0104
52	1·98	1·00	1·83	0·0043	0·0060	0·0025	0·0075	0·0219	0·0116
53	2·00	1·00	1·85	0·0048	0·0068	0·0027	0·0087	0·0243	0·0128
54	2·02	1·00	1·87	0·0054	0·0076	0·0030	0·0105	0·0273	0·0140
55	2·03	1·00	1·89	0·0060	0·0084	0·0033	0·0126	0·0306	0·0154
56	2·05	1·00	1·91	0·0068	0·0094	0·0036	0·0150	0·0342	0·0168
57	2·07	1·00	1·92	0·0076	0·0105	0·0039	0·0178	0·0384	0·0184
58	2·08	1·00	1·94	0·0084	0·0117	0·0043	0·0206	0·0432	0·0200
59	2·09	1·00	1·94	0·0094	0·0130	0·0048	0·0237	0·0486	0·0218
60	2.11	1·00	1·95	0·0105	0·0144	0·0053	0·0267	0·0546	0·0236
61	2·12	1·00	1·96	0·0117	0·0160	0·0058	0·0300	0·0612	0·0256
62	2·13	1·00	1·97	0·0130	0·0177	0·0064	0·0336	0·0684	0·0276
63	2·14	1·00	1·98	0·0144	0·0197	0·0070	0·0000	0·0000	0·0000
64	2·14	1·00	1·98	0·0160	0·0217	0·0078	0·0000	0·0000	0·0000

Dividend and interest payments received during each three month period from the transfer date on the assets held in the scheme at the transfer date shall be assumed to be invested from the end of that three month period until the date upon which the assets are actually transferred to the receiving scheme at an annual rate of interest equivalent to the then prevailing London Inter-Bank Offered Rate for three months notice deposits as published in the Financial Times.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations provide for the transfer of assets and liabilities from the Northern Ireland Electricity Superannuation scheme (''the scheme'') to the new pension schemes established by successor companies (as defined in Article 68 of the Electricity (Northern Ireland) Order 1992 (''the 1992 Order'')) other than Northern Ireland Electricity plc.

Regulation 1 provides for the citation and commencement of the Regulations, and Regulations 2 provides for interpretation.

Regulation 3 applies these Regulations to any employee of Northern Ireland Electricity who becomes an employee of a successor company (other than Northern Ireland Electricity plc) by virtue of a scheme under Article 69(4) of the 1992 Order. That change of employment will happen on 1st April 1992 (''the transfer date''). Regulation 3 stipulates that on the transfer date the employee shall become a member of the scheme established by his or her employing successor company. Also, the trustees of the successor company scheme shall become responsible for providing members with the benefits they have accrued in the scheme up to the transfer date, and the trustees and the Committee of Management of the scheme shall be discharged from their obligations.

Regulation 4 and the Schedules set out the method of calculation of the amounts of the transfers referred to in regulation 5.

Regulation 5 provides for the transfer of a proportion of the assets of the scheme to each of the successor company schemes. The transfer may be in cash if the trustees of the successor company scheme concerned so agree. It also provides for an interim payment to be made at the request of the trustees of the receiving schemes.

Regulation 6 provides that the Department shall determine any dispute between the trustees of the respective schemes as to any transfer amount.

Regulation 7 provides that these Regulations shall not affect any duty of any person arising from regulations made under paragraph 4 of Schedule 11 to the 1992 Order.

Schedule 1 sets out the method and assumptions for calculating the value of the accrued rights and liabilities under Regulation 4. It refers to the 1988 edition of a document entitled ''Pension Fund Terminology: Specimen Descriptions of Commonly Used Valuation Methods'', and to table PA (90), both published by the Institute of Actuaries and the Faculty of Actuaries. Copies of the documents may be obtained from The Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ.

Schedule 2 sets out the method of calculating the adjustment for interest payments and investment income earned on the assets up to the date of actual transfer.