STATUTORY RULES OF NORTHERN IRELAND

2015 No. 167

HEALTH AND PERSONAL SOCIAL SERVICES

PUBLIC SERVICE PENSIONS

The Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015

Laid before the Assembly in draft

Made - - - -	*18th March 2015*
Coming into operation	*1st April 2015*

The Department of Health Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(e), 2(1) and 3(1), (2), (3)(a) and (4) of the Public Service Pensions Act (Northern Ireland) 2014(**1**).

In accordance with section 21 of that Act, the Department has consulted the representatives of such persons as appear to it likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, the Department of Finance and Personnel has consented to the making of these Regulations.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015 and come into operation on 1st April 2015.

Interpretation

2. In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993(**2**);

"the 2014 Act" means the Public Service Pensions Act (Northern Ireland) 2014;

(**1**) 2014 c.2 (N.I.).
(**2**) 1993 c.49

"the new scheme" means the pension scheme established by regulations made under section 1(1) and (2)(e) of the 2014 Act for the payment of pensions and other benefits to or in respect of health service workers;

"the old scheme" means the Health and Social Care Pension Scheme, as constituted by the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**3**) and the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(**4**).

PART 2

Modification of contracting-out provisions

Application of this Part

3. This Part applies—

(a) an election is made under section 7 (elections as to employments covered by contracting-out certificates) of the 1993 Act(**5**) in relation to persons who become members of the new scheme on or after 1st April 2015 and before 6th April 2016 (whether or not P is also a member of the old scheme); and

(b) the new scheme satisfies the requirements of section 5 (requirements for certification of schemes) of the 1993 Act(**6**).

Contracting-out

4.—(1) Part 2 of the Occupational Pension Schemes (Contracting Out) Regulations (Northern Ireland) 1996(**7**) (certification of employments) is modified as follows in its application to the new scheme.

(2) The requirements in regulation 2(1)(a) (making of elections for the issue of contracting-out certificates) and regulations 3 (notices by employers of intended election) to 5 (time for making an election) do not apply.

(3) In regulation 6 (information to be included in an election)—

(a) paragraph (1) is to be read as though, for sub-paragraphs (a) to (f), there were substituted—

"(a) the name by which the new scheme is to be known;

(b) the name by which the old scheme is known; and

(**3**) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390; S.R. 1998 No.299; S.R. 1999 No.293; S.R. 2002 No.69; S.R. 2004 Nos.103 and 104; S.R. 2005 Nos. 155, 533, 534 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.0096, 130 and 163; S.R. 2009 Nos.0065 and 188; S.R. 2010 Nos.22, 286 and 420; S.R. 2011 No.256; S.R. 2012 Nos. 42 and 78; S.R. 2013 Nos.40, 73, 247 and 259; S.R. 2014 Nos.59 and 225

(**4**) S.R. 2008 No.256 as amended by S.R. 2009 Nos.65 and 188; S.R. 2010 Nos. 22, 286 and 420; S.R. 2011 No.256; S.R. 2012 Nos.42 and 78; S.R. 2013 Nos.40, 73, 247 and 259; S.R. 2014 Nos.59 and 225

(**5**) Section 7 was amended by Articles 1 and 3 of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**6**) Section 5 was amended by Articles 133 and 147 of, and Schedule 3 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22); Articles 1 and 3 of, and Schedule 1 to, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671); Article 260 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) (N.I.1); Article 8(2) of S.I. 2006/745, sections 12, 13 and 19 of, and Schedules 4 and 6 to, the Pensions Act (Northern Ireland) 2008 (c.1 N.I.))

(**7**) S.R. 1996 No.493. Amendments were made by the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671), and by S.R. 1997 No.160; S.R. 2002 No.109; S.R. 2005 No.568; S.R. 2012 Nos.120 and 124, and S.R. 2014 No.79. By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c.11), references to the Commissioners of Inland Revenue are to be taken as references to the Commissioners for Her Majesty's Revenuer and Customs

(c) any other information necessary to enable the Commissioners for Her Majesty's Revenue and Customs to identify the old scheme."; and

(b) paragraphs (2) and (3) do not apply.

PART 3

Modification of early leaver and other provisions

Application of this Part

5.—(1) This Part applies where a person (P)—

(a) is a member of the old scheme by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2014 Act (final salary link);

(b) is a member of the new scheme by virtue of pensionable service for the new scheme; and

(c) is—

(i) a person to whom paragraph 1 or 2 of Schedule 7 to the 2014 Act applies by virtue of that person's pensionable service for the new scheme, and whose final salary falls to be determined by reference to either of those paragraphs; or

(ii) a person to whom—

(aa) Schedule 2 to the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995; or

(bb) Part 3 of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008,

applies and who has pensionable service for the old scheme and pensionable service for the new scheme which are continuous.

(2) For the purpose of paragraph (1)(c)(ii)—

(a) paragraph 3 of Schedule 7 to the 2014 Act (continuity of employment) applies as it applies for the purposes of paragraphs 1(2)(a) and 2(2)(a) of that Schedule; and

(b) P's pensionable service for the old scheme and pensionable service for the new scheme are not continuous if scheme regulations made pursuant to section 8A(4)(b) of the Pensions (Increase) Act (Northern Ireland) 1971(**8**) (references to "service": relevant old scheme pension in payment) apply to P.

Certification

6.—(1) Section 11A of the 1993 Act(**9**) (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable "under the scheme" is to be taken as a reference to pensionable service either for the old scheme or for the new scheme.

(**8**) 1971 c.35 (N.I.). Section 8A was inserted by paragraph 2 of Schedule 8 to the Public Service Pensions Act 2014 (c.2 (N.I.)

(**9**) Section 11A was inserted by Article 29 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I.1999/3147 (N.I. 11)).

Preservation of benefit

7.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

(a) in section 66(**10**) (interpretation), in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as including a reference to either the old scheme or the new scheme;

(b) in section 67(1)(**11**) (basic principle as to short service benefit)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(iii) a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;

(iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,

and subsequent references in the Chapter to "short service benefit" are to be construed accordingly;

(c) in section 67(5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;

(d) in section 67(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old and new schemes taken together; and

(e) in sections 68(2) (no discrimination between short service and long service beneficiaries), 70(6) and (7) (computation of short service benefit), 71(3) and (4) (credits) and 72(1) and (3) (pension increases), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme.

(3) In the application of that Chapter to the new scheme—

(a) in section 66, in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;

(b) in section 67(1)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,

and subsequent references to in the Chapter to "short service benefit" are to be construed accordingly;

(**10**) Section 66 was amended by Article 2 of, and paragraph 12 of the Schedule to, the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) (S.R. 2005 No.434)

(**11**) Section 67 was amended by Article 240 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1) and section 27 of, and paragraph 20 of Schedule 8 to, the Public service Pensions Act (Northern Ireland) 2014 (c.2) (N.I.)