STATUTORY RULES OF NORTHERN IRELAND

2014 No. 225

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment No.2) Regulations (Northern Ireland) 2014

Made - - - - 12th September 2014

Coming into operation 15th October 2014

The Department of Health, Social Services and Public Safety, with the consent of the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 12(1) and (2), 14(1), (2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**1**).

In accordance with Article 12(4) of that Order, the Department has consulted with representatives of persons likely to be affected by these Regulations, as appeared to the Department to be appropriate.

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment No.2) Regulations (Northern Ireland) 2014.

(2) These Regulations come into operation on the 15th October 2014 and, save as provided in paragraphs (3) and (4) shall have effect from 1st April 2014.

(3) Regulations 11 and 16 shall have effect from 1st April 2008.

(4) Regulation 8 shall have effect from 20th February 2014.

(**1**) 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13); 1993 c.49 (N.I.) and S.I. 2002/1555

PART 2

Amendment of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**2**) are amended as provided by regulations 3 to 6.

Amendment of regulation 11

3. Paragraph (8) of Regulation 11 (Contributions by employing authorities)(**3**) is amended as follows—

(a) after "fails to pay or remit", insert "or has previously failed to pay or remit";

(b) after "these Regulations or", insert "such liabilities as are specified by the Department under these Regulations or".

Amendment of regulation 89A

4.—(1) Regulation 89A (Deduction of tax: further provisions)(**4**) is amended as provided by paragraphs (2) to (4).

(2) In paragraph (7A)—

(a) after "to the 2011 Act" insert "or paragraph 1 of Schedule 22 to the Finance Act 2013(**5**)";

(b) in sub-paragraph (a), after "Regulations 2011" insert "or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013(**6**)".

(3) In paragraph (8), after "paragraph (7)" insert "or (7A)".

(4) In paragraph (9), after "paragraph (7)" insert "or (7A)".

Amendment of regulation 97

5. For regulation 97 (Accounts and actuarial reports), substitute—

"**Accounts and actuarial reports**

97.—(1) The Department must keep accounts for the scheme in a form approved by the Department of Finance and Personnel.

(2) The accounts are to be open to examination by the Comptroller and Auditor General.

(3) In respect of a member, an employing authority must keep a record of all—

(a) contributions paid under regulations 10, 72 and 73A;

(b) contributions due under regulations 10, 72 and 73A but unpaid;

(c) contributions paid under regulation 11(1);

(**2**) 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.96, 130 and 163; 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 and S.R. 2014 No.59

(**3**) Regulation 11 as amended by S.R. 2005 No.533, regulation 3(2); S.R. 2005 No.565, regulation 8; S.R. 2008 No.96, regulation 3(2); S.R. 2008 No.130, regulation 3(3); S.R. 2008 No.163, regulation 8 and S.R. 2010 No.420, regulation 4

(**4**) Regulation 89A was inserted by S.R. 2006 No.410, regulation 16 and amended by S.R. 2008 No.130, regulation 3(18); S.R. 2008 No.163, regulation 62 and S.R. 2011 No.256, regulation 4

(**5**) 2013 c.29

(**6**) S.I. 2013/740

(d) contributions due under regulation 11(1) but unpaid;

(e) hours, half-days or sessions constituting part-time superannuable employment for the purposes of regulation 78;

(f) superannuable pay;

(g) absences from work referred to in regulations 65 and 66;

(h) commencements and terminations of superannuable employment;

(i) reasons for terminations of superannuable employment.

(4) That record is to be in a manner approved by the Department.

(5) Except where the Department waives such requirement, an employing authority must provide the Department with a composite statement in respect of all scheme members covering all the matters referred to in paragraph (3) within 2 months of the end of a scheme year; this is subject to Schedule 2.

(6) Where an employing authority has provided the information in accordance with paragraph (5) and subsequently there is then a change to any of that information, that employing authority must, within 1 month of the change, provide the Department with the revised information.

(7) In respect of each scheme year an employing authority must, within 2 months of a request and in a manner prescribed by the Department, provide the Department with details of the total contributions paid for all scheme members under regulations 10, 11, 72 and 73A.

(8) Where an employing authority has provided the information requested at paragraph (7) and subsequently there is a change in those details, that employing authority must, within 1 month of the change, provide the Department with the revised details.

(9) An employing authority must, no later than 1 month before the beginning of each scheme year, and in a manner prescribed by the Department, provide the Department with a statement of estimated total contributions due under regulations 10, 11, 72 and 73A for that scheme year.".

Amendment of Schedule 2

6.—(1) Schedule 2 (Medical and dental practitioners) is amended as provided by paragraphs (2) to (5).

(2) In sub-paragraph (2) of paragraph 2 (Application of Regulations with modifications)(**7**), after "locum practitioner", insert "; this is subject to sub-paragraph (10) of paragraph 23".

(3) In paragraphs (1)(a) and (2)(a) and (b) of paragraph 6 (Meaning of "superannuable earnings" in relation to other practitioners)(**8**), omit "or for overtime".

(4) In paragraph 10 (Contributions to this Section of the scheme)(**9**) for sub-paragraph (7), substitute—

"(7) Where—

(a) the principal medical practitioner is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), each such employing authority shall pay regulation 11(1) contributions on any superannuable earnings

(**7**) Paragraph 2 as amended by S.R. 2005 No.534, regulation 4(2) and S.R. 2005 No.565, regulation 12(2)

(**8**) Paragraph 6 as amended by S.R. 1999 No.293, regulation 11(1); S.R. 2005 No.534, regulation 4(5) and S.R. 2005 No.565, regulation 12(6)

(**9**) Paragraph 10 was substituted by S.R. 2005 No.565, regulation 12(7) and amended by S.R. 2009 No.65, regulation 20(4); S.R. 2009 No.188, regulation 11(2); S.R. 2010 No.22 Schedule 1, paragraph 1(b); S.R. 2010 No.420, regulation 8; S.R. 2012 No.42, regulation 10(2); S.R. 2012 No.73, regulation 7; S.R. 2012 No.78, regulation 8; S.R. 2013 No.73, regulation 7; S.R. 2013 No.247, regulation 4; S.R. 2013 No.259, regulation 16(3) and S.R. 2014 No.59, regulation 4

it pays to that practitioner or, as the case may be, on the practitioner's share of the partnership profits, to the host Health and Social Services Board;

(b) the non-GP provider is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), that non-GP provider must nominate one of those employing authorities and that nominated authority must pay regulation 11(1) contributions on any superannuable earnings it pays to that non-GP provider or, as the case may be, on the non-GP provider's share of the partnership profits, to the host Health and Social Services Board.".

(5) In paragraph 23 (Accounts and actuarial reports)(**10**)—

(a) in sub-paragraphs (2) and (3), after "certificate" insert "that correctly records the totality";

(b) for sub-paragraph (9), substitute,—

"(9) No later than 13 months after the end of each scheme year, each employing authority must forward to the Department a copy of the records referred to in regulation 97(3) and (4).".

(c) for sub-paragraph (10), substitute—

"(10) A member's superannuable earnings for a scheme year shall be zero and no contributions paid in respect of that scheme year are to be refunded where, in respect of that scheme year, a practitioner or non-GP provider has failed to comply with the requirements of—

(a) whichever of sub-paragraphs (2) to (5) applies to that member, or

(b) sub-paragraph (2) of paragraph 2.

This is subject to sub-paragraphs (11) and (12).".

PART 3

Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

7. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(**11**) are amended as provided by regulations 8 to 20.

Amendment of regulation 3

8. In regulation 3 (Actuarial reports and accounts)(**12**), after paragraph (3) add—

"(3A) The Scheme actuary must prepare an actuarial report of the scheme as at the 31st March 2012.

(3B) The Scheme actuary must send a copy of the actuarial report of the scheme to the Department and the Department of Finance and Personnel.

(3C) Where the Department indicates to the Scheme actuary that the actuarial report referred to in paragraph (3A) is also used for the purposes of establishing a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014(**13**) ("the proposed new scheme"), the Scheme actuary must prepare the report taking account of

(**10**) Paragraph 23 was inserted by S.R. 2005 No.565, regulation 12(9), substituted by S.R. 2009 No.188, regulation 11(4) and amended by S.R. 2010 No.22 regulation 12, Schedule 1, Part 1, paragraph 1(b) and S.R.2012 No.42, regulation 10(4)

(**11**) 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 and S.R. 2014 No.59

(**12**) Regulation 3 as amended by S.R. 2010 No.420, regulation 10 and S.R. 2013 No.259, regulation 18

(**13**) 2013 c.2

any Department of Finance and Personnel directions given from time to time pursuant to sections 11(2) and 12(3) of that Act (including any specific requirements in those directions relating to a preliminary valuation undertaken for the purposes of setting the employer cost cap for the proposed new scheme).".

Amendment of regulation 5

9. Paragraph (3A) of regulation 5 (Provision of information relevant for tax purposes)(**14**), is amended as follows—

(a) after "to the 2011 Act" insert "or paragraph 1 of Schedule 22 to the Finance Act 2013";

(b) after "Regulations 2011" insert "or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013".

Amendment of regulation 6

10. In paragraph (1) of regulation 6 (Interpretation: general)(**15**), in the definition of "Host Board", for the full out words at the end of sub-paragraph (c) substitute—

"means the Regional Health and Social Care Board (RHSCB) and such a person shall be deemed to be employed by the RHSCB for the purposes of this Part, except where—

(i) regulation 31(7) or (8) applies; or

(ii) contributions payable pursuant to regulation 31 by an employing authority in respect of a non-GP provider: in such a case those contributions are not payable by the RHSCB but are payable by that non-GP provider or by the practice in which they are a non-GP provider;".

Amendment of regulation 21

11. In paragraph (3) of regulation 21 (Eligibility: general)(**16**), for sub-paragraph (b), substitute—

"(b) entered HSC employment before that date and whether or not that person was, on that date, an active member of the 1995 Section in that employment or any other HSC employment,".

Amendment of regulation 33

12.—(1) Regulation 33 (Guarantees, indemnities and bonds), is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(a), after "fails to pay contributions" insert "or has previously failed to do so".

(3) In paragraph (2), after "liabilities of the authority", insert "(or such liabilities as are specified by the Department)".

Amendment of regulation 50

13. In paragraph (1)(c) of regulation 50 (Increase in pensionable pay following exercise of option under regulation 49)(**17**), for "less than 90 per cent" substitute "90 per cent or less".

(**14**) Regulation 5 as amended by S.R. 2010 No.22, regulation 15 and S.R. 2012 No.78, regulation 10
(**15**) Definition of Host Board was substituted by S.R. 2009 No.65, regulation 24(c); amended by S.R. 2010 No.22, regulation 16(d) and S.R. 2010 No.286, regulation 17(b)
(**16**) Regulation 21 as amended by S.R. 2009 No.65, regulation 29; S.R. 2010 No.22, regulation 20 and S.R. 2010 No.286, regulation 19
(**17**) Regulation 50 as amended by S.R. 2009 No.188, regulation 24