STATUTORY RULES OF NORTHERN IRELAND

2013 No. 259

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation Scheme and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013

Made - - - -	*7th November 2013*
Coming into operation	*9th December 2013*

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) and 19 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 Scheme and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013.

(2) These Regulations come into operation on 9th December 2013 and, save as provided in paragraphs (3) and (4), shall have effect from 1st April 2013.

(3) The following regulations shall have effect from 12th February 2007—

(a) regulation 52; and

(b) regulation 53.

(4) The following regulations shall have effect from 1st April 2008—

(**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

(a) regulations 6 to 8;

(b) regulation 21;

(c) regulation 26;

(d) regulation 28;

(e) regulation 38;

(f) regulation 43; and

(g) regulation 44.

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 16.

Amendment of regulation 2

3. In regulation 2(1) (Interpretation), in the definition of "employing authority", in paragraph (e), after the words "health services" insert "(in whole or in part)".

Amendment of regulation 11

4.—(1) Regulation 11 (Contributions by employing authorities)(**3**) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (7), at the end insert (as full out words) "This is subject to paragraph (7A).".

(3) After paragraph (7), insert—

"(7A) Where the member leaves superannuable employment on or after 1st April 2013, any additional contributions that are due to the Department under paragraph (3)(b), (c), (e) and (f) may only be paid by a single payment of an amount determined by the Department on the advice of the Scheme Actuary: that payment must be made within one month of the date on which the pension under regulation 14A became payable.".

Amendment of regulation 14A

5. In regulation 14A (Early retirement pension (Termination of employment by employing authority))(**4**) for paragraph (2) substitute—

"(2) Those conditions are that—

(a) the member has 2 years' qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;

(b) the member's employing authority certifies—

(**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 10 ; S.R. 2008 Nos..96, 130 and 163; S.R. 2009 Nos.65 and 188; S.R. 2010 No.22, 286 and 420; S.R. 2011 No.256; S.R. 2012 Nos.42 and 78 and S.R. 2013 Nos.40, 73 and 141

(**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 14A was inserted by S.R. 2008 No.96, regulation 3(5) and amended by S.R. 2013 No.40, regulation 5

(i) that the member has at least 2 years' continuous employment determined in accordance with any terms and conditions applying to that employment, and

(ii) if the member's employment is terminated by reason of redundancy, the member is entitled to claim a pension under this regulation as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to the member in accordance with those terms and conditions;

(c) the member's employing authority does not certify that the member has unreasonably refused to seek suitable alternative employment or accept an offer of such employment;

(d) the Department certifies—

(i) that the member's employment is terminated by reason of redundancy, or

(ii) with the agreement of the employing authority, that the member's employment is terminated in the interests of the efficiency of the service in which the member is employed; and

(e) the member makes a claim for the pension referred to in this regulation.".

Amendment of regulation 28

6. In regulation 28 (Member marries after leaving superannuable employment) after paragraph (3), add—

"(4) Where the nominated partner referred to in regulation 31E (Surviving nominated partner's pension) becomes the member's widow on the member's death, the widow's pension will, if it would be more beneficial to the widow, be equal to the nominated partner pension that would have been payable if the widow and the member had not been married to each other.".

Amendment of regulation 31E

7.—(1) Regulation 31E (Surviving nominated partner's pension)(**5**), is amended as provided by paragraphs (2) and (3).

(2) In paragraph 2(b), at the end of—

(a) paragraphs (i) and (ii), omit "or"; and

(b) paragraph (iii), for "or" substitute "and".

(3) For paragraph (5), substitute—

"(5) Subject to paragraph (6), regulations 23 to 28 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows, and paragraph (1) of regulation 28 shall be read as if, for the words "where the member and his wife were not married to each other during any period of superannuable employment", it said "where a nomination for a surviving partner pension becomes effective after all superannuable employment has ceased".".

Amendment of regulation 35

8. In regulation 35 (Member dies after pension becomes payable)(**6**), for paragraph (4) substitute —

(**5**) Regulation 31E was inserted by S.R. 2008 No.163, regulation 29 and amended by S.R. 2010 No.22, regulation 7

(**6**) Regulation 35 as amended by S.R. 2005 No.533, regulation 3(8); S.R. 2008 No.163, regulation 32 and S.R. 2009 No.188, regulation 8

"(4) If the member dies leaving a dependent child and there is no surviving parent or no surviving spouse or civil partner or nominated partner of a parent, the allowance—

(a) for the period of 6 months beginning with the member's death, will be the greater of—

(i) the amount of the member's pension calculated without regard to any reduction made under regulation 85 (Reduction of pension on return to HSC employment), and

(ii) the amount of child allowance that would otherwise be payable under these Regulations;

(b) following the period referred to in sub-paragraph (a), will be equal to—

(i) one-third of the pension described in paragraph (2) if there is only one dependent child,

(ii) two-thirds of the pension described in paragraph (2) if there are two or more dependent children.".

Amendment of regulation 47

9. In regulation 47 (Protected rights transferred to this Section of the Scheme)(**7**), in paragraph (1) after "Where" insert ", prior to 6th April 2012,".

Amendment of regulation 73F

10.—(1) Regulation 73F (Cancellation and cessation of options under regulation 73A)(**8**) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (4), after "such an option" insert "in accordance with paragraph (3),".

(3) After paragraph (4) add—

"(5) If, after the exercise of the option under regulation 73A, the Department has reasonable grounds to believe that the member's health will prevent the member from paying contributions for the whole contribution period, the Department may cancel the option by giving the member notice in writing.

(6) If the Department cancels such an option in accordance with paragraph (5)—

(a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice ("date of cancellation") and all subsequent pay periods: and

(b) any periodical payments made prior to the date of cancellation shall be returned to the member.".

Amendment of regulation 73H

11. In regulation 73H (Effect of death or early payment of pension after option exercised under regulation 73A, 73C or 73D)(**9**), in paragraphs (2) and (4), for "If a member" substitute "Subject to regulation 73F(5) and (6), if a member".

(**7**) Regulation 47 was amended by S.R. 2005 No.533, regulation 3(15)
(**8**) Regulation 73F was inserted by S.R. 2008 No.163, regulation 51
(**9**) Regulation 73H was inserted by S.R. 2008 No.163, regulation 51

Amendment of regulation 85

12. In regulation 85 (Reduction of pension on return to HSC employment)(**10**), in paragraph (6), after "paragraph (3)" insert "or (3A)".

New regulation 88A

13. After regulation 88 (Claims for benefits), insert—

"**Provision of information: continuing entitlement to benefit**

88A.—(1) The Department may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Department with all or any of the following material—

(a) evidence of the person's identity;

(b) the person's contact details;

(c) evidence of the person's continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Department may withhold all, or any part, of any benefit payable to that person.".

Amendment of regulation 97

14. Omit paragraphs (3) to (4) of regulation 97 (Accounts and actuarial reports)(**11**).

Omission of regulation 97A

15. Omit regulation 97A (Cost sharing)(**12**).

Amendment of Schedule 2

16.—(1) Schedule 2 is amended as provided by paragraphs (2) to (4).

(2) In paragraph 2 (Application of Regulations with modifications), in sub-paragraph (2), after "practitioner" at the end, add "other than any period or periods of work as a locum practitioner".

(3) In paragraph 10 (Contributions to this Section of the Scheme)(**13**)—

(a) for sub-paragraph (2F) substitute—

"(2F) In determining, in accordance with this paragraph, the contributions that are payable pursuant to regulations 10(1) and 11(1), a host Health and Social Services Board must take account of all superannuable earnings as a—

(a) practitioner, from all practitioner sources;

(b) non-GP provider, from all non-GP provider sources;

(c) dentist performer, from all dentist performer sources.";

(b) in sub-paragraph (18)(a) and (b), after "a practitioner" insert ", a locum practitioner".

(**10**) Regulation 85 as amended by S.R. 1998 No.299, regulation 13; S.R. 2002 No.69, regulation 9; S.R. 2005 No.155, regulation 8; S.R. 2008 No.163, regulation 57; S.R. 2009 No.65, regulation 15 and S.R. 2012 No.42, regulation 7

(**11**) Regulation 97 as amended by S.R. 2005 No.565, regulation 11; S.R. 2008 No.130, regulation 3(21); S.R. 2010 No.420, regulation 6 and S.R. 2011 No.256, regulation 5

(**12**) Regulation 97A was inserted by S.R. 2010 No.22

(**13**) 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.286, regulation 15; S.R. 2010 No.420, regulation 8; S.R. 2012 No.42, regulation 10(2); S.R. 2012 No.78, regulation 8 and S.R. 2013 No.73, regulation 7