STATUTORY RULES OF NORTHERN IRELAND

2013 No. 40

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation Scheme and Injury Benefits) and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013

Made - - - - 28th February 2013

Coming into operation 29th March 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) 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 Injury Benefits) and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013.

(2) These Regulations come into operation on 29th March 2013 and, save as provided in paragraphs (3) and (4), shall have effect from that date.

(3) Regulation 7(3) shall have effect from 1st April 2001.

(4) Regulations 12 and 21 shall have effect from 1st April 2012.

(**1**) S.I. 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

Amendment of the 1995 Regulations

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**2**) are amended as provided by regulations 3 to 7.

Amendment of regulation 2

3. In regulation 2 (Interpretation), in the definition of "employing authority" for paragraph (l) substitute—

"(l) Health and Social Care Trust (HSC Trust) established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;".

Amendment of regulation 7

4.—(1) Paragraph (1) of regulation 7 (Restrictions on membership)(**3**), is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (q)(iv) after the words "Part VI" delete "." and substitute ";".

(3) After sub-paragraph (q), add—

"(r) that person is a person, other than a registered dentist, who is employed as a dental pilot scheme employee otherwise than by a HSC Trust, and who either—

(i) was, immediately prior to the commencement of such employment, a HPSS dental employee who was not eligible to join the scheme; or

(ii) has not previously been in employment as a HPSS dental employee;

(s) that person is a provider of personal dental services under a pilot scheme to whom these Regulations did not apply immediately prior to the commencement of the pilot scheme, other than a registered dentist.".

Amendment of regulation 14A

5. In regulation 14A (Early retirement pension (termination of employment by employing authority))(**4**), for paragraph (6) substitute—

"(6) This regulation does not apply to—

(a) practice staff;

(b) practitioners;

(c) non-GP providers;

(d) a member who is providing piloted services;

(e) a member to whom regulation 83A(1)(a) or (b) applies; or

(**2**) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390S.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

(**3**) Paragraph (1) was inserted by S.R. 2008 No.163, regulation 5 and amended by S.R. 2009 No.65, regulation 5(2); S.R. 2010 No.286, regulation 4(2) and S.R.2012 No.42, regulation 4

(**4**) Regulation 14A was inserted by S.R. 2008 No.96, regulation 3(5)

(f) a member who is a dental pilot scheme employee and who is employed by a provider of piloted services other than a HSC Trust.".

Amendment of regulation 83A

6.—(1) Regulation 83A (Participators in pilot schemes)(**5**) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)—

(a) in sub-paragraph (d)(ii) omit the words "employed by the provider of the piloted services";

(b) omit sub-paragraph (e);

(c) at the end of sub-paragraph (f)(i), insert "or";

(d) omit sub-paragraph (i).

(3) After paragraph (2) add—

"(3) Notwithstanding paragraph (1), where the provider of a piloted service is a qualifying body, it shall be liable to pay contributions under regulation 11, as if it were an employing authority, in respect of a member to whom paragraph (1)(b) applies, or who is employed by the qualifying body as a dental pilot scheme employee.

(4) For the purposes of this regulation, "qualifying body" means—

(a) a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984(**6**), is entitled to carry on the business of dentistry; or

(b) a company which is limited by shares, all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2) of Article 5 of the 1997 Order.".

Amendment of Schedule 2

7.—(1) Paragraph 19 (Members absent from work) of Schedule 2 (Medical and dental practitioners)(**7**) is amended as provided by paragraphs (2) and (3).

(2) After sub-paragraph (5) add—

"(6) For the purposes of these Regulations, for the duration of any pilot scheme—

(a) a member who provides piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as a practitioner whether or not his name is included on a dental list prior to the commencement of the pilot scheme; and

(b) a member who performs piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as an officer whether or not his name is included on a dental list prior to the commencement of the pilot scheme."

(3) After sub-paragraph (6) add—

"(7) Regulations 65 and 66 and the previous sub-paragraphs do not apply in the case of locum practitioners.".

(**5**) Regulation 83A was inserted by S.R. 1998 No.299 and substituted by S.R. 1999 No.293, regulation 10 and amended by S.R. 2005 No.565, regulation 10

(**6**) 1984 c.24

(**7**) Paragraph 19 was amended by S.R. 1998 No.299, regulation 14(3); S.R. 1999 No.293, regulation 11(2); S.R. 2005 No.565, regulation 12(8) and S.R. 2008 No.163, regulation 63(12)

PART 3

AMENDMENT OF THE HEALTH AND SOCIAL CARE (PENSION SCHEME) REGULATIONS (NORTHERN IRELAND) 2008

Amendment of the 2008 Regulations

8. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(**8**) are amended as provided by regulations 9 to 20.

Amendment of regulation 6

9.—(1) Regulation 6 (Interpretation: general) is amended as provided by paragraphs (2) and (3).

(2) At the appropriate place in alphabetical order, insert the following definitions—

""dental list" means a list kept pursuant to the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993;

"dental pilot scheme employee" means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by a person providing those services;

"HSC dental employee" means an individual who, in connection with the provision of health care in the health service is employed by—

(a) a HSC Trust;

(b) the Regional Board;

(c) a registered dentist; or

(d) a registered dentist who is providing personal dental services in accordance with a pilot scheme;

"HSC Trust" means a trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;

"personal dental services" has the meaning given in Article 3(7) of the 1997 Order;

"pilot scheme" has the meaning given in Article 3(1) of the 1997 Order;

"piloted services" has the meaning given in Article 3(4) of the 1997 Order;

"Regional Board" means the Regional Health and Social Care Board, established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"registered dentist" has the meaning given in section 53(1) of the Dentists Act 1984;".

(3) In the definition of "employing authority" for paragraph (j) substitute—

"(j) Health and Social Care Trust (HSC Trust) established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;".

Amendment of regulation 9

10. In regulation 9 (Pensionable service: breaks in service)(**9**) after paragraph (9) add—

"(10) For the duration of any pilot scheme—

(a) a member who provides piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as a practitioner

(**8**) 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

(**9**) Regulation 9 was amended by S.R. 2009 No.65, regulation 26

whether or not his name is included on a dental list prior to the commencement of the pilot scheme; and

(b) a member who performs piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as an officer whether or not his name is included on a dental list prior to the commencement of the pilot scheme.".

Amendment of regulation 22

11. In regulation 22 (Restrictions on eligibility: general)(**10**), after paragraph (8) add—

"(9) A person is not eligible to be an active member of this Section of the Scheme if that person is a person, other than a registered dentist, who is employed as a dental pilot scheme employee otherwise than by a HSC Trust, and who either—

(a) was, immediately prior to the commencement of such employment, a HSC dental employee who was not eligible to join the scheme; or

(b) has not previously been in employment as a HSC dental employee.

(10) A person is not eligible to be an active member of this Section of the Scheme if that person is a provider of personal dental services under a pilot scheme to whom these Regulations did not apply immediately prior to the commencement of the pilot scheme, other than a registered dentist.".

Amendment of regulation 28

12. In regulation 28 (Contribution rate for members other than non-GP Providers)(**11**) omit paragraph (4).

Amendment of regulation 55

13. In regulation 55 (Early retirement on termination of employment by employing authority)(**12**), for paragraph (8) substitute—

"(8) This regulation does not apply to—

(a) practice staff;

(b) a member who is providing piloted services;

(c) a member to whom regulation 155A(1)(a) or (b) applies; or

(d) a member who is a dental pilot scheme employee and who is employed by a provider of piloted services other than a HSC Trust.".

Amendment of regulation 137

14.—(1) Regulation 137 (Interpretation of Part 3: general) is amended as provided by paragraphs (2) to (5).

(2) For the definition of "the 1997 Order" substitute—

""the 1997 Order" means the Health Services (Primary Care) (Northern Ireland) Order 1997(**13**).".

(**10**) Regulation 22 was amended by S.R. 2009 No.65, regulation 30; S.R. 2009 No.188, regulation 17 and S.R. 2010 No.286, regulation 21
(**11**) Regulation 28 was substituted by S.R. 2010 No.420, regulation 12 and amended by S.R. 2012 No.78, regulation 12
(**12**) Regulation 55 was amended by S.R. 2009 No.188, regulation 28
(**13**) S.I. 1997/1177 (N.I. 7)