STATUTORY RULES OF NORTHERN IRELAND

2008 No. 163

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2008

Made - - - -	*8th April 2008*
Coming into operation	*9th April 2008*

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

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2008, and shall come into operation on 9th April 2008, and shall have effect from 1st April 2008, except for regulation 64(2) and (3), which shall have effect from 1st April 2003.

(2) The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**2**) are amended as provided by regulations (2) to (64).

Amendment of regulation 2

2.—(1) In regulation 2 (Interpretation) insert the following definitions in the appropriate place in alphabetical order—

> ""scheme year" means a period of one year beginning with 1st April and ending with 31st March next following;

(**1**) S.I. 1972 No. 1073 (N.I. 10) as amended by S.I. 1990 No. 1509 (N.I. 13)
(**2**) S.R. 1995 No. 95 as amended by S.Rs. 1997 No. 217 and 390, S.R. 1998 No. 299, S.R. 1999 No. 293, S.R. 2002 No. 69, and S.Rs. 2004 Nos. 103 and 104, and S.Rs. 2005 Nos. 155, 533, 534 and 565, S.Rs. 2006 Nos. 159 and 410, and S.Rs. 2008 Nos. 96 and 130

"section 5(2B) rights" has the same meaning as it has in the Pension Schemes (Northern Ireland) Act 1993(**3**);

"tax year" means any year beginning on 6th April and ending on 5th April the following year;

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

"the 2004 Act" means the Finance Act 2004.".

(2) For the definition of "scheme" substitute—

""scheme" means the Health and Social Care Superannuation Scheme, the rules of which are set out in these regulations";

(3) For the definition of "superannuable employment" substitute—

""superannuable employment" means HSC employment in respect of which the member contributes to the scheme".

(4) After regulation 2 insert—

"(2A) For the words "HPSS employment" in every place where they occur substitute "HSC employment"".

Amendment of regulation 3

3.—(1) Regulation 3 (Meaning of "superannuable pay") is amended as provided by paragraphs (2) to (6).

(2) After paragraph (1) insert—

"(1A) Paragraphs (2) to (4) and (5) to (7) apply in respect of superannuable employment before 1st April 2008.".

(3) After paragraph (4) insert—

"(4A) Paragraphs (4B) to (7) apply in respect of superannuable employment on, or after, 1st April 2008.

(4B) Subject to paragraph (4C), superannuable pay in excess of the permitted maximum will not be ignored.

(4C) Superannuable pay in excess of the permitted maximum will be ignored in respect of additional service being bought under regulation 67 and an unreduced lump sum being bought under regulation 68 if—

(a) the member elected to make such a purchase under regulation 72(3) from a birthday falling before 1st April 2008; and

(b) the member's superannuable pay was restricted under paragraph (2) before that date; or

(c) the member's superannuable pay would have been restricted under that paragraph if it had exceeded the permitted maximum.".

(4) In paragraph (6), for "In these" substitute "Subject to paragraph (6A), in these".

(5) After paragraph (6) insert—

"(6A) If the superannuable pay of a member credited with any period of superannuable service under regulation 61 (Transfers made under the Public Sector Transfer Arrangements) or regulation 63 (Special terms for transfers in (bulk transfers etc)) has exceeded the permitted maximum and either—

(**3**) 1993 c. 49

(a) paragraph 20 of Schedule 6 to the Finance Act 1989(**4**) applied to the member without the modification made by regulation 5 of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(**5**) in respect of benefits derived from all or part of that service under another scheme; or

(b) any equivalent scheme provision applied to the member in respect of all or part of that service when that person was a member of the scheme from which the transfer was accepted,

that excess shall be ignored for the purposes of calculating the final year's superannuable pay under paragraph (6) in respect of the corresponding period of superannuable service credited under regulation 61 or 63.".

(6) For paragraph (7) substitute—

"(7) In this regulation, "permitted maximum" means—

(a) in relation to any tax year before the tax year 2006-07, the figure specified for that tax year in an order made under section 590C of the Income and Corporation Taxes Act 1988; or

(b) subject to paragraphs (8) and (9), the figure for any later year is £108,600.

(8) If the retail prices index for the month of September preceding the tax year 2007-08 or any later tax year is higher than it was for the previous September, the figure for that year shall be an amount arrived at by—

(a) increasing the figure for the previous tax year by the same percentage as the percentage increase in the retail prices index; and

(b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.

(9) If the retail prices index for the month of September preceding the tax year 2007-08 or the month of September preceding any later tax year is not higher than it was for the previous September, the figure for that year shall be the same as for the previous tax year.".

Amendment of regulation 4

4.—(1) Regulation 4 (Meaning of "superannuable service") is amended as provided by paragraphs (2) and (3).

(2) After paragraph (2)(d) add—

"(e) in the case of a member who is not a special class officer, any period of superannuable service in excess of 40 years that relates to a period before—

(i) the member's 60th birthday; and

(ii) 1st April 2008.".

(3) For paragraph (3) substitute—

"(3) Subject to paragraph (2), the benefits described in these Regulations will be calculated by reference to a maximum of—

(a) 45 years superannuable service in the case of a member who is not a special class officer;

(**4**) 1989 c. 26
(**5**) S.I. 1990/2101

(b) 45 years superannuable service (of which only 40 years may relate to the period before the member reaches age 55) in the case of a member who is a special class officer,

and if the member's superannuable service exceeds these limits, the amount of the excess will be ignored.".

Amendment of regulation 7

5. For regulation 7 (Restrictions on membership) substitute—

"**Restrictions on membership**

7.—(1) A person may not join the scheme if—

(a) that person is—

(i) under the age of 16; or

(ii) over the age of 75; or

(iii) over the age of 70 on or before 31st March 2008;

(b) that person is a special class officer over the age of 65;

(c) that person is eligible to be an active member of a superannuation scheme established under Article 3 or 11 of the Superannuation (Northern Ireland) Order 1972 in respect of service in that scheme and is such a member;

(d) that person holds an honorary appointment and does not at the same time hold any other employment which entitles him to join the scheme;

(e) that person is not a practitioner and is employed by a GDS or PDS contractor;

(f) that person, on or after 1st April 2008, enters HSC employment for the first time and has not previously been a member of the scheme;

(g) that person, on or after 1st April 2008, returns to HSC employment and was entitled to a refund of contributions under regulation 50 when he last left employment, unless paragraph (4), but not paragraph (5), of regulation 52 applies to that person;

(h) that person is a person who—

(i) leaves superannuable employment on, or after, 1st April 2008; and

(ii) before returning to HSC employment, exercises his right to transfer out all of his benefits in the scheme in accordance with regulation 53 or 54.

(i) that person is a person who has been a member of the Health and Social Care (HSC) Pension Scheme governed by the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2008.

(2) In paragraph (1)—

(a) "HSC Pension Scheme 2008" includes a corresponding health service scheme;

(b) "superannuable employment" includes employment that qualified the member for a benefit under a health service scheme.

(3) The Department may permit a person who would otherwise not be permitted to join the scheme in accordance with sub-paragraphs (1)(f) to (h) to do so if—

(a) that person's employment is transferred to an employing authority by virtue of a transfer of undertakings or by virtue of arrangements equivalent to a transfer of undertakings (whether or not the transferring employer is in the public sector

provided that person's employment was originally transferred out of the public sector);

(b) the employment from which the member is transferred—

(i) qualified the member for benefits under an occupational pension scheme, and

(ii) the rules of that scheme (in the opinion of the Department) entitle the member to receive benefits on retirement upon, or prior to, attaining the age of 60 years.

(4) The reference in paragraph (3)(a) to arrangements equivalent to a transfer of undertakings is to arrangements—

(a) which the Department considers to be equivalent to the transfer of an undertaking, and

(b) under which the parties to the arrangements have agreed that the rights of the persons whose employments are being transferred should as far as practicable be treated in the same way as they would have been under a transfer of an undertaking.

(5) For the purposes of paragraph (3)(b)(ii) a person is not to be treated as being entitled under the rules of a pension scheme to receive benefits upon, or prior to, attaining the age of 60 years, where such entitlement arises by virtue of any scheme rule making special provision—

(a) as to early retirement on the grounds of ill health, redundancy or otherwise, or

(b) for benefits to be reduced for early payment.

(6) Before permitting a person referred to in paragraph (3) to join the scheme the Department shall take advice from the Scheme Actuary.".

Amendment of regulation 8

6.—(1) Regulation 8 (Restriction on further participation in the scheme) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1), for "regulations 6 and 7" substitute "regulation 6(1)".

(3) In paragraph (2), after 13(11) insert "or 13A(11)".

Amendment of regulation 10

7.—(1) Regulation 10 (Contributions by members) is amended as provided by paragraphs (1) to (3).

(2) For paragraphs (1) and (2) substitute—

"(1) Each member in superannuable employment must contribute to the scheme in accordance with the following paragraphs.

(1A) For the purposes of determining the relevant contribution rate for the 2008–2009 scheme year a member who meets one of the conditions referred to in paragraph (1B) must contribute 5 per cent of the member's superannuable pay.

(1B) The conditions referred to in paragraph (1A) are—

(a) the member is in superannuable employment on both the 31st March 2008 and 1st April 2008 with the same employer and that employment is by way of manual labour,