STATUTORY RULES OF NORTHERN IRELAND

2006 No. 410

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2006

Made - - - -	*12th October 2006*
Coming into operation	*31st October 2006*

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

Citation, commencement and retrospective effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2006

(2) These Regulations shall come into operation on 31st October 2006 and shall have effect from 6th April 2006 except that regulation 19 shall have effect from 1st April 2006.

Interpretation

2. In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993(**3**)

"the AVC Regulations" means the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999(**4**);

(**1**) See S.I. 1999/283 (N.I. 1): Article 3(6)
(**2**) S.I.1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(**3**) 1993 c. 49
(**4**) S.R. 1999 No. 294 as amended by S.R. 2002 No. 129; S.R. 2004 No. 104; S.Rs. 2005 Nos. 154 and 533

"the Injury Benefits Regulations" means the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(**5**);

"the Superannuation Scheme Regulations" means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**6**).

Amendment of regulation 2 of the Superannuation Scheme Regulations

3.—(1) Regulation 2(**7**) of the Superannuation Scheme Regulations (Interpretation) is amended in accordance with this regulation.

(2) Insert each of the following definitions at the appropriate place in the alphabetical order—

""the 2004 Act" means the Finance Act 2004(**8**);

"lump sum rule" has the meaning given in section 166 of the 2004 Act;

"lump sum death benefit rule" has the meaning given in section 168 of the 2004 Act;

"normal minimum pension age" has the meaning given in section 279 of the 2004 Act;

"protected pension age" means the pension age provided for in Part 3 of Schedule 36 to the 2004 Act for the purposes of that Part (which deals with pre-commencement benefit rights and the right to take benefit before normal minimum pension age) where conditions specified in that Part are satisfied;"

(3) For the definition of "occupational pension scheme" and "personal pension scheme" respectively, substitute—

""occupational pension scheme" means an occupational pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993(**9**) which—

(a) in the case of such a scheme established on, or after, the 6th April 2006 is a registered pension scheme for the purposes of the 2004 Act and which the Department agrees to recognise as a transferring scheme for the purposes of regulations 53 to 64 (Transfers);

(b) in the case of such a scheme established before that date, was—

(i) approved by the Commissioners for Her Majesty's Revenue and Customs(**10**) for the purposes of Chapter I of Part XIV of the Income and Corporations Taxes Act 1988(**11**) (Retirement Benefits Schemes) or whose application for approval under that Chapter was under consideration,

(ii) a statutory scheme as defined in section 612(1) of the Income and Corporation Taxes Act 1988 (Interpretation), or

(iii) a scheme to which section 608 of the Income and Corporation Taxes Act 1988 applied (Superannuation funds approved before 6th April 1980),

and on 6th April 2006 became a registered pension scheme for the purposes of the 2004 Act.

"personal pension scheme" means a personal pension scheme which—

(**5**) S.R. 2001 No. 367 as amended by S. R. 2004 No. 156; S.Rs 2005 Nos.533565 and S.R. 2006 No.159
(**6**) S.R 1995 No. 95 as amended by S.Rs. 1997 Nos. 217 and 390; S.R. 1998 No. 299; S.R. 1999 No. 293; S.R. 2002 No. 69; S.Rs. 2004 Nos. 103 and 104: S.Rs. 2005 Nos. 155, 533, 534 and 565 and S.R. 2006 No. 159
(**7**) Regulation 2 was amended by S.R. 1997 No.390, S.R. 1998 No. 299, S.R. 1999 No. 293, S.R. 2002 Nos. 69 , S.R.2004 No.104, S.Rs. 2005 Nos. 534 and 565
(**8**) 2004 c.12
(**9**) 1993 c.49
(**10**) The functions of the Commissioners for Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11)
(**11**) 1988 c. 1

(a) in the case of such a scheme established on, or after, 6th April 2006 is a registered pension scheme for the purposes of the 2004 Act and which the Department agrees to recognise as a transferring scheme for the purposes of regulations 53 to 64 (Transfers);

(b) in the case of a scheme established before that date, was—

(i) approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 (Personal Pension Schemes), and

(ii) on the 6th April 2006 became a registered pension scheme for the purposes of the 2004 Act;".

Amendment of regulation 9A of the Superannuation Scheme Regulations

4.—(1) Regulation 9A(**12**) of the Superannuation Scheme Regulations (Opting into the Scheme: Mis-sold Pensions) is amended in accordance with this regulation.

(2) For paragraph (4) substitute—

4.—"(4) In this regulation—

"active member" means a person who is in superannuable employment under the scheme; and

"personal pension scheme" has the meaning given by section 1 of the 1993 Act and includes—

(i) a retirement annuity contract approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(**13**);

(ii) a personal pension scheme approved under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988;

(iii) a retirement benefits scheme approved under section 591(2)(g) of the Income and Corporation Taxes Act 1988;

(iv) a scheme referred to in (i), (ii) or (iii) that obtained relevant approval under the Income and Corporation Taxes Act 1988 before 6th April 2006 and on that date became a registered scheme for the purpose of the 2004 Act;

(v) a scheme established on, or after, 6th April 2006 as a registered scheme for the purpose of the 2004 Act and which the Department agrees to recognise as a transferring scheme for the purposes of regulations 53 to 64".

Amendment of Regulation 13 of the Superannuation Scheme Regulations

5.—(1) Regulation 13 of the Superannuation Scheme Regulations (Early retirement pension (ill health)) is amended in accordance with this regulation.

(2) For paragraph (7) substitute—

"(7) Subject to paragraph (8), where a member becomes entitled to a pension under paragraph (1), the Department may discharge its liability for that pension by the payment of a lump sum of an amount consistent—

(a) with the contracting-out and preservation requirements of the 1993 Act; and

(b) the lump sum rule.".

(3) For paragraph (10), substitute—

"(10) The amount of the lump sum payable under paragraph (7)—

(**12**) Regulation 9A was inserted by S.R. 1997 No. 217

(**13**) 1988 c. 1

(a) will be equal to 5 times the yearly rate of the member's incapacity pension (calculated in accordance with this regulation); and

(b) shall be payable in addition to the lump sum on retirement payable under regulation 17 (Lump sum on retirement) (which shall not be subject to any reduction under regulation 17(3)).".

Amendment of regulation 14 of the Superannuation Scheme Regulations

6. In paragraph (1)(a) of regulation 14(**14**) of the Superannuation Scheme Regulations (Early retirement pension (redundancy etc)), for "age 50" substitute "normal minimum pension age, or where relevant, protected pension age".

Amendment of regulation 15 of the Superannuation Scheme Regulations

7. In paragraph (1) of regulation 15 of the Superannuation Scheme Regulations (Early retirement pension (employer's consent)), for "age 50" substitute "normal minimum pension age, or where relevant, protected pension age".

Amendment of regulation 16 of the Superannuation Scheme Regulations

8. In paragraph (1) of regulation 16 of the Superannuation Scheme Regulations (Early retirement pension (with actuarial reduction)), for "age 50" substitute "normal minimum pension age, or where relevant, protected pension age".

Amendment of regulation 17 of Superannuation Scheme Regulations

9.—(1) Regulation 17 of the Superannuation Scheme Regulations (Lump sum on retirement) is amended in accordance with this regulation.

(2) In paragraph (1) for "Each member" substitute "Subject to paragraph (8), each member".

(3) After paragraph (7), add—

"(8) Where a member entitled to a lump sum under this regulation has attained the age of 75—

(a) he shall cease to be entitled to a lump sum; and

(b) shall instead be entitled to have his pension increased by such amount as the Department may, after taking advice from the Government Actuary, determine.".

Amendment of regulation 19 of the Superannuation Scheme Regulations

10.—(1) Regulation 19 of the Superannuation Scheme Regulations (Member dies after pension becomes payable) is amended in accordance with this regulation.

(2) After paragraph (2), insert—

"(3) A person who retires from superannuable employment on, or after, 6th April 2006 may give notice to the Department in accordance with paragraph (4)(a) that any lump sum payable under this regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Part 2 of Schedule 29 to the 2004 Act.

(4) Such a notice—

(a) shall be given in writing; and

(b) may be revoked in writing at any time.

(**14**) Regulation 14(1) was amended by S.R 2002 No. 69

(5) A lump sum paid under this regulation in respect of a member who became entitled to a pension under regulations 12 to 16 (Benefits) or 49 (Preserved pension) before 6th April 2006, shall be treated as a pension protection lump sum death benefit but regulation 89A (10)(**15**) shall not apply.".

Amendment of regulation 32 of the Superannuation Scheme Regulations

11.—(1) Regulation 32 of the Superannuation Scheme Regulations (Dependent child) is amended in accordance with this regulation.

(2) In paragraphs 3(b), (c) and (d) and paragraph (4), after "aged 17 or over" insert "but has not reached the age of 23".

(3) After paragraph (3)(d), insert—

"or

(e) or aged 17 or over but has not reached the age of 23 and is incapable of earning a living because of permanent physical or mental infirmity from which he started to suffer whilst qualifying as a dependent child; but such a person will only be treated as a dependent child for so much of the period commencing with the day on which he attains the age of 17 and ending immediately before the day on which he attains the age of 23, during which he remains incapable of earning a living.".

(4) In paragraph (6), omit "or from which he started to suffer whilst qualifying as a dependent child".

(5) After paragraph (6), insert—

"(7) Where—

(a) a dependent child became entitled to a child allowance under regulation 33 (Payment of allowance) before 6th April 2006; or

(b) the dependency of a child born on, or before, 5th April 2007 is to be assessed in respect of a person who became entitled to a pension under regulations 12 to 16 (Benefits) or 49 (Preserved pension) before 6th April 2006,

paragraphs (3)(b), (c) and (d) and paragraph (4) shall be read as if they did not include the words "but has not reached the age of 23", paragraph (3)(e) shall not apply and paragraph (6) shall be read as if it included the words "or from which he started to suffer whilst qualifying as a dependent child" after the words "the member died".".

Amendment of regulation 39 of the Superannuation Scheme Regulations

12. In paragraph (4)(a) of regulation 39 of the Superannuation Scheme Regulations (Allocation of pension) for "on, or within one month after," substitute "before".

Amendment of regulation 49 of the Superannuation Scheme Regulations

13. In paragraph (3)(d)(ii)(**16**) of regulation 49 of the Superannuation Scheme Regulations (Preserved pension) for "age 50", substitute "normal minimum pension age or, where relevant protected pension age".

(**15**) Regulation 89A(10) is inserted pursuant to regulation 16 of these Regulations
(**16**) Inserted by S.R. 2002 No.69