STATUTORY RULES OF NORTHERN IRELAND

2005 No. 155

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*23rd March 2005*
Coming into operation	*9th May 2005*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred upon it by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**2**) and of all other powers enabling it in that behalf, after consulting with such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate as required by Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 9th May 2005.

(2) These Regulations shall have effect as from 1st April 2003 except in the case of regulation 7 which shall have effect as from 6th April 2003.

Interpretation

2. In these Regulations "the principal Regulations" means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**3**).

Amendment of regulation 3(3) of the principal Regulations (Meaning of "superannuable pay")

3. For regulation 3(3) of the principal Regulations (meaning of "superannuable pay"), there shall be substituted the following paragraph –

"(3) In the case of a member who –

(**1**) *See* S.I.1999/283 (N.I.): Article 3(6)
(**2**) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(**3**) 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 and S.R. 2004 Nos. 103 and 104

(a) joined the scheme before 1st June 1989 and has a break in superannuable employment on or after that date –

(i) any superannuable pay earned preceding the break in that employment in excess of the permitted maximum will not be ignored;

(ii) any superannuable pay earned after the break in that employment in excess of the permitted maximum will be ignored;

(b) joined the scheme before 1st June 1989 and to whom sub-paragraph (a) does not apply, superannuable pay in excess of the permitted maximum will not be ignored.".

Amendment of regulation 22 of the principal Regulations (Payment of lump sum)

4. In regulation 22 of the principal Regulations (Payment of lump sum)(**4**) –

(1) In sub-paragraph (3)(a) –

(a) after the word "notice" in the first place where it occurs, there shall be inserted the words "in writing";

(b) the words "in accordance with paragraph (3B)" shall be omitted.

(2) After sub-paragraph (3)(a) there shall be inserted the following sub-paragraph –

"(aa) the widow or widower has been convicted of an offence specified in regulation 93 (Loss of rights to benefits) and the Department has directed as a consequence of that conviction, the widow's or widower's right to a payment in respect of the member's death shall be forfeited; or,".

(3) In paragraph (3A), the words "and (3C)" shall be omitted.

(4) After sub-paragraph (3A)(a) there shall be inserted the following sub-paragraph –

"(aa) that person has been convicted of an offence specified in regulation 93 (Loss of rights to benefits) and the Department has directed as a consequence of that conviction, that that person's right to a payment in respect of the member's death shall be forfeited; or".

Amendment of regulation 49 of the principal Regulations (Preserved pension)

5. In regulation 49 of the principal Regulations (Preserved pension) –

(1) At the beginning of paragraph (4), there shall be inserted the words "Except in a case to which paragraph (4A) applies,";

(2) After paragraph (4) there shall be inserted the following paragraphs –

"(4A) Paragraph (4) may not apply where the HPSS employment which the member is in when he reaches age 60 is employment into which he has been transferred as a result of an undertaking to the employer.

(4B) Where the member receives a pension under paragraph (1) while being in the new employment to which paragraph (4A) applies –

(a) his benefits in respect of any superannuable service in that new employment shall be calculated without any regard to any superannuable service in any earlier employment;

(b) for the purposes of regulation 4 (Meaning of "superannuable service") and regulation 10(3) and (4) (Contributions by members), his service in the earlier employment and in the new employment shall be aggregated.".

(**4**) Regulation 22 was amended by S.R. 2002 No. 69

Amendment of regulation 52 of the principal Regulations (Early leavers returning to superannuable employment)

6. For regulation 52(8) of the principal Regulations (Early leavers returning to superannuable employment) there shall be substituted the following paragraph –

"(8) If a member's superannuable employment before and after a break in superannuable employment (the "pre-break period" and the "post-break period") is treated separately, the member's benefits in respect of such employment in the pre-break period and the post-break period shall be calculated –

(a) separately; and

(b) by reference to –

(i) the member's superannuable service comprising that pre-break period or post-break period as the case may be; and

(ii) his final year's superannuable pay in respect of that particular period,

as if that period had been his only period of superannuable employment.".

Amendment of regulation 65 of the principal Regulations (Absence because of illness or injury or maternity leave)

7.—(1) In the title to regulation 65 of the principal Regulations (Absence because of illness or injury or maternity leave), for the words "maternity leave", there shall be substituted the words "certain types of leave".

(2) In regulation 65(1), after the words "maternity leave", there shall be inserted the words "adoption leave or paternity leave".

(3) In regulation 65(4)(b), for the words "woman on maternity leave", there shall be substituted the words "member on maternity leave, adoption leave or paternity leave".

Amendment of regulation 85 of the principal Regulations (Reduction of pension on return to HPSS employment)

8. In regulation 85 of the principal Regulations (Reduction of pension on return to HPSS employment) –

(1) At the beginning of paragraph (1), there shall be inserted the words "Except in a case to which paragraph (1A) applies,".

(2) After paragraph (1) there shall be inserted the following paragraph –

"(1A) This paragraph applies where a member has been transferred into HPSS employment as a result of a transfer of an undertaking to the employer .".

Amendment of regulation 93 of the principal Regulations (Loss of rights to benefits)

9. In regulation 93 of the principal Regulations (Loss of rights to benefits) –

(1) After paragraph (1) there shall be inserted the following paragraph –

"(1A) Subject to paragraph (2), the Department may also direct that all or part of any rights to benefits or other amounts payable in respect of a member be forfeited where such benefits or amounts are payable to a person who is –

(a) the member's widow or widower;

(b) a dependant of the member;