STATUTORY RULES OF NORTHERN IRELAND

2002 No. 129

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2002

Made - - - -	*28th March 2002*
Coming into operation	*9th May 2002*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Articles 12(1), (2), (2A)(**2**) and (3) and 14(**3**) (1), (2), (3) and (3A)(**4**) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**5**) 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, commencement and retrospective effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2002.

(2) These Regulations shall come into operation on 9th May 2002 and regulation 9 shall have effect from 1st December 1999.

Interpretation

2. In these Regulations—

"the principal Regulations" means the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999(**6**);

(**1**) *See*S.I. 1999/283 (N.I. 1): Article 3(6)
(**2**) Paragraph (2A) and paragraph 11 were inserted by Article 10(5) and Article 10(6) of S.I. 1990/1509 (N.I. 13)
(**3**) Article 14 of the Superannuation (Northern Ireland) Order was amended by Article 12 of S.I. 1990/1509 (N.I. 13)
(**4**) As inserted by Article 12(3) of S.I. 1990/1509 (N.I. 13)
(**5**) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(**6**) S.R. 1999 No. 294

"the 1995 Regulations" means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**7**).

Amendment of regulation 2 of the principal Regulations

3. In regulation 2 *(Interpretation)*—

(a) after the definition of "authorised fund" there shall be inserted the following definition—

""authorised provider" has the meaning given to it by Article 12(11) of the Superannuation (Northern Ireland) Order 1972(**8**);"

(b) in the definition of "date of retirement" after the words "regulations 12 to 17" there shall be inserted "or regulation 49";

(c) for the definition of "dependant" there shall be substituted—

""dependant" means—

(a) a surviving spouse of a participator (providing the marriage was not, prior to 1st April 1995, subject to an order of judicial separation);

(b) any surviving child of a participator; or

(c) any person in whose favour a participator has made an election under regulation 39 of the 1995 Regulations *(allocation of pension)*;"

(d) for the definition "participator" there shall be substituted—

"participator" means—

(a) a contributor who has made a benefit election under regulation 11(3);

(b) a contributor who has died;

(c) a person who has ceased to be a contributor but has not exercised any right to receive a cash equivalent within the meaning of section 90 of the Pension Schemes (Northern Ireland) Act 1993(**9**) or to be paid a lump sum under regulation 14 (Repayment of investments in certain cases); or

(d) a person in respect of whom investments have been made under regulation 7(1), 8(2) or 9(4);

(e) after the definition of "salary" there shall be inserted the following definition:—

""Tax year" means the 12 months beginning with 6th April in any year;".

Amendment of regulation 3 of the principal Regulations (Making and acceptance of elections)

4. In regulation 3(2) (Making and acceptance of elections) for the word "contributors" there shall be substituted the word "contributor's".

Amendment of regulation 4 of the principal Regulations (Payment and amount of additional voluntary contributions)

5. In regulation 4(2) (Payment and amount of additional voluntary contributions) for the figure "10" there shall be substituted the figure "7".

(**7**) S.R. 1995 No. 95 as amended by S.R. 1997 No. 217; S.R. 1997 No. 390; S.R. 1998 No. 299; S.R. 1999 No. 293 and S.R. 2002 No. 69

(**8**) Paragraph (11) was inserted in Article 12 by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

(**9**) 1993 c. 49. Section 90 was amended by Article 150 of S.I. 1995/3213 (N.I. 22)

Amendment of regulation 5 of the principal Regulations (Variation and cancellation of elections)

6. In regulation 5(1)(*b*) (Variation and cancellation of elections) for the words "of them to be invested in future in some authorised fund;" there shall be substituted "of any future contributions to be invested in some other authorised fund;".

Amendment of regulation 6 of the principal Regulations (Circumstances in which elections cease to have effect)

7. In regulation 6(*a*) (Circumstances in which elections cease to have effect) after the words "regulations 12 to 17" there shall be inserted the words "or regulation 49".

Amendment of regulation 9 of the principal Regulations (Inward transfers: mis-sold pensions)

8. In regulation 9(1) (inward transfers: mis-sold pensions) after the words "the 1995 Regulation applies" there shall be inserted the word "and".

Amendment of regulation 11 of the principal Regulations (Retirement and dependant's pensions)

9. After regulation 11(5) (Retirement and dependant's pensions) there shall be inserted the following—

"(5A) Notwithstanding whether benefits to which a participator may be entitled under regulations 12 to 17 or regulation 49 of the 1995 Regulations (benefits for members or preserved pensions) are payable, where a participator's date of retirement falls on or after 1st December 1999 and he has—

(a) reached the age of 75; and

(b) failed to give notice of election under paragraph (3) on or before the date of his 75th birthday,

the Department may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of a pension policy from an insurance company in order to provide such benefits as appear to be suitable.".

Amendment of regulation 15 of the principal Regulations (Payments by the Department)

10.—(1) In regulation 15(9) (Payments by the Department) after the words "regulations 12 to 17" there shall be inserted the words "or regulation 49";

(2) In regulation 15(10) after the words "regulation 13(7)" the words "or 17(5)" shall be deleted.

Amendment of the Schedule to the principal Regulations

11.—(1) In paragraph 3(1) of Part I of the Schedule (Benefit limits) after the words "D is the" there shall be inserted the word "annual", and after the word "participator's" there shall be inserted the word "adjusted";

(2) After paragraph 4 of the Schedule there shall be inserted the following paragraph—

"**4A.** "Permitted amount" means—

(a) in relation to a retirement pension, the amount determined in accordance with whichever of paragraphs 8 to 13 is applicable in the case of the participator;