STATUTORY RULES OF NORTHERN IRELAND

1999 No. 294

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999

Made - - - -	*28th June 1999*
Coming into operation	*9th August 1999*

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

PART I

Preliminary

Citation, commencement and retrospective effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999.

(2) These Regulations shall come into operation on 9th August 1999 and shall have effect from 1st February 1991(**5**).

Interpretation

2.—(1) In these Regulations—

(**1**) Paragraph (2A) was inserted by Article 10(5) of S.I.1990/1509 (N.I. 13) and paragraph (11) was inserted by Article 10(6) of S.I. 1990/1509 (N.I. 13)
(**2**) Article 14 of the Superannuation (Northern Ireland) Order was amended by Article 12 of S.I. 1990/1509 (N.I. 13)
(**3**) As inserted by Article 12(3) of S.I. 1990/1509 (N.I. 13)
(**4**) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(**5**) *See* Article 14(1) of the Superannuation (Northern Ireland) Order 1972, which provides that certain regulations may be framed so as to have effect from a date earlier than that of their making

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

"approved scheme" means a retirement benefits scheme approved under Chapter 1 of Part XIV of the Taxes Act;

"authorised fund" means a fund managed by an authorised provider selected by the Department for the purposes of these Regulations;

"child" means a child who is entitled to a child's allowance under regulation 33 of the 1995 Regulations (Payment of allowance);

"contributor" means a person in respect of whom an election under regulation 3(1) has effect;

"date of retirement" means the date on which benefits become payable to the participator under any of regulations 12 to 17 of the 1995 Regulations;

"the Department" means the Department of Health and Social Services;

"dependant" means either a surviving spouse (providing the marriage was not, prior to 1st April 1995, subject to an order of judicial separation) or any surviving child of that contributor or participator;

"dependant's pension" means a pension which becomes payable to a dependant on the death of a participator;

"free-standing additional voluntary contributions scheme" means an approved scheme which falls within section 591(2)(h) of the Taxes Act (discretionary approval);

"the Index" at any time means the Retail Price Index or any successor agreed as appropriate by the Board of Inland Revenue, for the calendar month three months prior to that time;

"insurance company" means a body authorised under section 3 or 4 of the Insurance Companies Act 1982(**7**) to carry on long term insurance business or an EC company as defined by section 2(6) of that Act(**8**) which carries on long term insurance business through a branch in the United Kingdom and in respect of which such of the requirements of Part I of Schedule 2F to that Act(**9**) as are applicable have been complied with;

"lump sum death benefit" means a lump sum which will become payable in the event of a person's death while paying contributions to provide for it;

"participator" means—

(a) a person in respect of whom investments have been made under regulation 7, 8(2) or 9(4) and who has not exercised any right to take a cash equivalent within the meaning of section 90 of the Pension Schemes (Northern Ireland) Act 1993(**10**) or to be paid a lump sum under regulation 14; or

(b) a person who, while he was a participator in terms of paragraph (a), has made a benefits election under regulation 11(3) or has died;

"personal pension scheme" means a scheme approved under Chapter IV of Part XIV of the Taxes Act;

"retirement" is to be construed in accordance with the 1995 Regulations;

"retirement benefits scheme" has the meaning given to it in section 611 of the Taxes Act;

"salary" means all salary, wages, fees and other payments paid or made to a person as such for his own use in respect of his employment;

(**6**) S.R. 1995 No. 95 as amended by S.R. 1997 No. 217; S.R. 1997 No. 390 and S.R. 1998 No. 299
(**7**) 1982 c. 50
(**8**) As inserted by S.I. 1994/1696, regulation 4(2)
(**9**) Schedule 2F was inserted by S.I. 1994/1696 Schedule 6
(**10**) 1993 c. 49; section 90 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 150

"the Taxes Act" means the Income and Corporation Taxes Act 1988(**11**).

(2) Subject as aforesaid and except where the context otherwise requires, other expressions in these Regulations have the same meaning as in the 1995 Regulations.

PART II

Additional Voluntary Contributions

Making and acceptance of elections

3.—(1) Subject to paragraph (3), a person in superannuable employment may elect to pay contributions under these Regulations—

(a) for investment under regulation 7(1) to provide for an annuity payable on retirement;

(b) for investment under regulation 7(2) to provide for a lump sum death benefit.

(2) An election under paragraph (1) may relate to contributions to be paid by, or on behalf of, the contributor or contributions to be paid by the contributors employer or both.

(3) An election under paragraph (1) shall not have effect if the person making it—

(a) is on leave of absence from work or while his earnings are reduced or have ceased; or

(b) is not receiving tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation 10 of the 1995 Regulations.

(4) An election under paragraph (1) shall be made by giving written notice to the Department specifying—

(a) whether the election relates to paragraph (1)(a) or (b), or both;

(b) the amount of the contributions; and

(c) in relation to the contributions for the purpose of investment under regulation 7(1), the authorised fund or funds in which the contributions are to be invested,

and, subject to paragraph (5), shall be accepted by the Department.

(5) The Department shall not accept an election under paragraph (1)—

(a) where any limit imposed by regulation 4(3), 4(4) or 13 (limits on contributions and benefits) would be exceeded; or

(b) in the case of an election under paragraph (1)(b) to provide for a lump sum on death, unless it is satisfied that the election is made in accordance with the requirements of regulation 16(2) and at the time of making an election the person is in good health and there is no reason why his health should prevent him from making contributions.

(6) Subject to paragraph (5)(b) and regulation 4(4), where contributions are paid until the contributors 60th birthday and the contributor does not then cease to be in superannuable employment, an election may be made to pay further contributions up to the contributors 61st birthday to provide for a lump sum death benefit; and so long as the contributor has not ceased to be in superannuable employment, further elections may be made annually in respect of subsequent years.

(7) For the purposes of paragraphs (1) and (6), an election shall have effect from the date when the Department accepts the election.

(**11**) 1988 c. 1

Payment and amount of additional voluntary contributions

4.—(1) Contributions under these Regulations may be made by way of weekly, monthly or quarterly payments or by way of a single payment.

(2) The contributor's employer may deduct any amount payable by the contributor from the contributors salary, and such deductions shall commence to be made from the salary in respect of the first whole pay period falling after the date the employer receives authorisation to make those deductions and shall be remitted to the Department as soon as reasonably practicable but not later than 10 days following the pay period in which the contributions are deducted.

(3) Subject to paragraph (4), in any period of 12 months beginning on 6th April in any year the total contributions payable by the contributor must not exceed the lesser of A and B where—

A is 15 percent of the contributor's salary less the total of any contributions in respect of that year paid by the contributor—

(i) to another approved scheme;

(ii) to a free-standing additional voluntary contributions scheme;

(iii) under the 1995 Regulations;

B is the amount which would be likely to provide benefits of the largest amounts allowed by regulation 13.

(4) In the case of an election under regulation 3(1)(b) to provide for a lump sum death benefit, contributions payable by virtue of that election, or any election under regulation 3(6) or 5(2)(a), may not, at the date on which the Department accepts the election, be of such amount as to provide for a lump sum death benefit in excess of the permitted amount under paragraph 15(4) of the Schedule.

Variation and cancellation of elections

5.—(1) A contributor who has elected under regulation 3(1)(a) to pay contributions for the purpose of investment under regulation 7(1) may at any time by giving written notice to the Department—

(a) subject to regulation 4(3), alter the amount of the contributions;

(b) require the whole or part of them to be invested in future in some authorised fund; or

(c) require the Department to realise the whole or part of any investments made and to reinvest the proceeds in some other authorised fund; or

(d) cancel the election.

(2) A contributor who has elected under regulation 3(1)(b) to pay contributions to provide a lump sum death benefit under regulation 7(2) may at any time by giving written notice to the Department—

(a) subject to regulation 4(3) and (4) and provided he is not absent from work or his health is such that the Department would not accept an election under regulation 3(1)(b), elect that a specified larger sum is to be secured and the contributions increased accordingly; or

(b) cancel the election.

(3) The Department shall give effect as soon as is reasonably practicable to the terms of any notice given under this regulation.

Circumstances in which elections cease to have effect

6. An election shall cease to have effect where a contributor—

(a) receives payment of benefits under any of regulations 12 to 17 of the 1995 Regulations except where the contributor is entitled to accrue further benefits in the circumstances described in regulation 8(2) of those Regulations;

(b) leaves superannuable employment;

(c) ceases to be in superannuable employment by virtue of an election under regulation 9 of the 1995 Regulations (Opting out of the scheme); or

(d) ceases to receive tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation 10 of the 1995 Regulations (Contributions by members).

Investment of additional voluntary contributions

7.—(1) Any contributions paid in respect of a contributor for investment under this paragraph shall be invested by the Department in accordance with any notice under regulation 3(4) or 5(1).

(2) Any contributions paid in respect of a contributor to provide for a lump sum death benefit under this paragraph shall be paid by the Department to an insurance company selected by it so as to secure the payment of a lump sum death benefit of the amount required by any notice under regulation 3(4) or 5(2).

Inward transfers

8.—(1) Where a person who enters superannuable employment has during any previous employment paid contributions to—

(a) a free-standing additional voluntary contributions scheme; or

(b) an approved scheme which provides additional benefits through additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval),

that person, whether or not he becomes a contributor within the meaning of these Regulations, may, within 12 months of entering superannuable employment, or such longer period as the Department may in any particular case allow, give written notice to the Department that he wishes it to accept from the trustees or managers of such a scheme a transfer value representing the value of the investments derived from his contributions.

(2) Where the Department accepts a transfer value it shall be invested by the Department, in accordance with the wishes of the person entering superannuable employment, in one or more of the authorised funds.

(3) Where a transfer value is invested under paragraph (2) the person may at any time, by giving written notice to the Department, require the Department to realise the whole or part of the sums so invested and to reinvest the proceeds in a different way.

Inward transfers: mis-sold pensions

9.—(1) This Regulation shall apply to a person to whom regulation 9A(**12**) (Opting into the Scheme: Mis-sold Pensions) of the 1995 Regulations applies in respect of whom a transfer payment within the meaning of regulation 62A(**13**) (Transfers in respect of members to whom regulation 9A applies who elect to join or rejoin the scheme) of those Regulations has been paid by a personal pension scheme to the Department.

(2) Subject to paragraph (3), where, at any time, a person to whom this regulation applies elects to rejoin the scheme under regulation 9(5) (Opting out of the scheme) of the 1995 Regulations, that person, whether or not he becomes a contributor within the meaning of these Regulations may, within 12 months of rejoining the scheme, or such longer period as the Department may in any particular

(**12**) Regulation 9A was inserted by S.I. 1997 No. 217, regulation 4
(**13**) Regulation 62A was inserted by S.I. 1997 No. 217, regulation 6(3)