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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 294**

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

**PART IV**

**Miscellaneous Provisions**

**Repayment of investments in certain cases**

**14.**—(1) In the case of a person who—

- (a) ceases to be employed in superannuable employment;
- (b) is entitled to receive a refund of contributions under regulation 50 of the 1995 Regulations; and
- (c) has applied for and received such a refund of contributions,

the Department shall make arrangements for that person, subject to paragraph (2), to receive a lump sum representing the total realisable value of the investments made by the Department in respect of that person under regulation 7(1), 8(2) or 9(4) less the amount of tax chargeable under section 598 of the Taxes Act (charge to tax: repayment of employee's contributions).

(2) Where, in the circumstances mentioned in paragraph (1), contributions have been made by an employer, the Department shall make arrangements for that employer to receive a lump sum representing the total realisable value of the investments made by the Department in respect of contributions made by that employer under regulation 7(1) less the amount of tax chargeable under section 601 of the Taxes Act (charge to tax: payment to employers).

**Payments by the Department**

**15.**—(1) Subject to paragraph (2), where an authorised provider fails to pay any amount due under an annuity or lump sum death benefit provided in accordance with these Regulations, the Department shall be liable to pay that amount.

(2) Where, on or after the date on which these Regulations come into operation, a participator elects for benefits to be provided by an authorised provider other than the one selected by the Department, the Department shall not be liable under paragraph (1).

(3) Lump sums payable—

- (a) as mentioned in regulation 11(4); or
- (b) under regulation 11(7) or 12,

shall be paid to the deceased's spouse (provided no notice has been given under regulation 22(1) of the 1995 Regulations that the spouse is not to receive payment) or, if there is no spouse or such notice has been given, to the deceased's personal representatives.

(4) Lump sums payable under regulation 11(8) or 14(1) shall be paid to the participator.

(5) If when a participator dies a lump sum would have been payable under regulation 11(7) or 12, but the whole or part of that sum cannot be paid by reason of regulation 13 and paragraph 15 of the Schedule, any amount which cannot be paid under those provisions shall be used for the purchase of an annuity which complies with the provisions of regulation 11(2)(b) and (c) to provide a pension for—

- (a) the deceased's spouse, but if none is living;
- (b) any dependant child of the deceased,

provided that—

- (i) any such person shall be subject to any limit imposed by regulation 13 and paragraph 14 of the Schedule; and
- (ii) any amount remaining after the purchase of such a pension, or the whole amount if no such person as is mentioned in sub-paragraph (a) or (b) is living, less any amount of tax chargeable under section 599A of the Taxes Act<sup>(1)</sup> (charge to tax; payments out of surplus funds), shall be paid to the deceased's personal representatives.

(6) If, by reason of regulation 13 and paragraphs 7 to 14 of the Schedule, an annuity falling to be provided under regulation 11 is not payable in full, there shall, subject to paragraph (7), be paid to the participator the balance of the amount, or aggregate of amounts, not exceeding the prescribed amount as defined in paragraph (8), out of the investments by virtue of regulation 11(5) which would otherwise have been applicable to the purchase of the annuity less the amount of any tax chargeable under section 599A of the Taxes Act.

(7) Where, in the circumstances mentioned in paragraph (6), contributions have been made by the employer, the balance (to the extent that it is attributable to contributions made by the employer) less the amount of any tax chargeable under section 601 of the Taxes Act, shall be paid to the employer.

(8) In paragraph (6) the reference to a prescribed amount is to an amount calculated in accordance with the method for the time being specified in regulations made for the purposes of section 591 of the Taxes Act (discretionary approval) as the method to be used for calculating the amount of any surplus funds.

(9) In the case of a participator to whom benefits become payable under any of regulations 12 to 17 of the 1995 Regulations, the Department may realise such part of the investments made under these Regulations as is derived from any contributions made by the participator's employer without purchasing an annuity and, in that event, the amount shall be payable to the participator as a lump sum.

(10) In the case of a participator to whom regulation 13(7) or 17(5) of the 1995 Regulations applies (early retirement on grounds of ill-health), the Department may realise the investments made under these Regulations without purchasing an annuity and, in that event, the proceeds shall be payable as a lump sum less any charge to tax under section 599 of the Taxes Act.

## Information

**16.—**(1) A person making an election under these Regulations, and his employers, shall give the Department such information it may reasonably require for the purposes of its functions under these Regulations.

(2) A person making—

- (a) an election under regulation 3(1)(b) or (6) to provide a lump sum death benefit; or
- (b) an election under regulation 5(2)(a),

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(1) Section 599A was inserted by section 75 of, and paragraph 12 of Schedule 6 to, the Finance Act 1989 (c. 26)

shall, in particular, give the Department such information about his health as it may reasonably require.

### **Payments in respect of deceased persons**

17.—(1) This regulation applies where a person dies and the total of—

- (a) any sums that were due to him under these Regulations; and
- (b) any sums payable under these Regulations to his personal representatives,

does not exceed the amount specified in any order for the time being in force for the purposes of section 1 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967<sup>(2)</sup> and applying in relation to the death.

(2) Where this regulation applies the Department may, without requiring the production of proof of title, pay any amount due under paragraph (1)(a) or (b)—

- (a) to the deceased's personal representatives; or
- (b) to the person, or to among any one or more of any persons, appearing to it to be beneficially entitled to the estate,

any any person to whom such a payment is made, and not the Department, shall thereafter be liable to account for any amount paid.

### **Benefits not assignable on bankruptcy**

18.—(1) On the bankruptcy of any person entitled to benefit under these Regulations, no part of the benefit shall be paid to any trustee or any other person acting on behalf of creditors, except as provided for in paragraph (2).

(2) Where, following the bankruptcy of any person entitled to benefits under these Regulations, the court makes an income payments order under Article 283 of the Insolvency (Northern Ireland) Order 1989<sup>(3)</sup> that requires the Department to pay all or part of the benefit to the person's trustee in bankruptcy, the Department shall comply with that order.

### **Offset for crime, negligence or fraud**

19. Where, in the circumstances set out in regulation 92 of the 1995 Regulations, there has been a loss to public funds, the Department may, in relation to benefits which arise by virtue of the employer's contributions, reduce the amount of any benefit payable to or in respect of a person under these Regulations, to the extent set out, and subject to the conditions specified in that regulation.

### **Loss of rights to benefit**

20. Where the circumstances are such that a direction may be made by the Department under regulation 93 of the 1995 Regulations, the Department may direct that all or part of any rights to benefit under these Regulations which arise by virtue of the employer's contributions be forfeited.

### **Determination of questions**

21. Any question arising under these Regulations as to the rights or liabilities of any person shall be determined by the Department.

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(2) 1967 c. 5 (N.I.). The amount specified in S.R. 1984 No. 336 as amended by S.R. 1988 No. 271 is £5,000

(3) S.I.1989/2405 (N.I. 19)

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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