
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 167

The Health Service Workers (Consequential Provisions) Regulations (Northern Ireland) 2015

PART 3

Modification of early leaver and other provisions

Application of this Part

- 5.—(1) This Part applies where a person (P)—
- (a) is a member of the old scheme by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2014 Act (final salary link);
 - (b) is a member of the new scheme by virtue of pensionable service for the new scheme; and
 - (c) is—
 - (i) a person to whom paragraph 1 or 2 of Schedule 7 to the 2014 Act applies by virtue of that person's pensionable service for the new scheme, and whose final salary falls to be determined by reference to either of those paragraphs; or
 - (ii) a person to whom—
 - (aa) Schedule 2 to the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995; or
 - (bb) Part 3 of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008,applies and who has pensionable service for the old scheme and pensionable service for the new scheme which are continuous.
- (2) For the purpose of paragraph (1)(c)(ii)—
- (a) paragraph 3 of Schedule 7 to the 2014 Act (continuity of employment) applies as it applies for the purposes of paragraphs 1(2)(a) and 2(2)(a) of that Schedule; and
 - (b) P's pensionable service for the old scheme and pensionable service for the new scheme are not continuous if scheme regulations made pursuant to section 8A(4)(b) of the Pensions (Increase) Act (Northern Ireland) 1971(1) (references to "service": relevant old scheme pension in payment) apply to P.

Certification

- 6.—(1) Section 11A of the 1993 Act(2) (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(1) 1971 c.35 (N.I.). Section 8A was inserted by paragraph 2 of Schedule 8 to the [Public Service Pensions Act 2014 \(c.2 \(N.I.\)\)](#)
(2) Section 11A was inserted by Article 29 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I.1999/3147 \(N.I. 11\)](#)).

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable “under the scheme” is to be taken as a reference to pensionable service either for the old scheme or for the new scheme.

Preservation of benefit

7.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

(a) in section 66(3) (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as including a reference to either the old scheme or the new scheme;

(b) in section 67(1)(4) (basic principle as to short service benefit)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(iii) a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to the new scheme;

(iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,

and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;

(c) in section 67(5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to the new scheme;

(d) in section 67(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for the old scheme or for the old and new schemes taken together; and

(e) in sections 68(2) (no discrimination between short service and long service beneficiaries), 70(6) and (7) (computation of short service benefit), 71(3) and (4) (credits) and 72(1) and (3) (pension increases), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to the new scheme.

(3) In the application of that Chapter to the new scheme—

(a) in section 66, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;

(b) in section 67(1)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(3) Section 66 was amended by Article 2 of, and paragraph 12 of the Schedule to, the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) (S.R. 2005 No.434)

(4) Section 67 was amended by Article 240 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1) and section 27 of, and paragraph 20 of Schedule 8 to, the Public service Pensions Act (Northern Ireland) 2014 (c.2) (N.I.)

- (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,
and subsequent references to in the Chapter to “short service benefit” are to be construed accordingly;
- (c) in section 67(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for the new scheme or for the old and new schemes taken together; and
- (d) in section 70(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

Revaluation of preserved benefit

8.—(1) Chapter 2 of Part 4 of the 1993 Act (protection for early leavers: revaluation of accrued benefits) are modified as follows in relation to P.

(2) In the application of Chapter 2 for the purpose of revaluing the benefit payable to or in respect of P under the old scheme—

- (a) in section 79(1)(a)(ii)(**5**) (scope of chapter 2), the reference to the date on which P’s pensionable service ends is to be taken as a reference to the date on which P’s pensionable service ends in relation to the new scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

Protection of increases in guaranteed minimum pensions

9.—(1) Chapter 3 of Part 4 of the 1993 Act (protection for early leavers: protection of increases in guaranteed minimum pensions (“anti-franking”)) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 83(1)(a)(i)(**6**) (general protection principle), the reference to the time when P ceases to be in contracted-out employment by reference to a scheme is to be taken as a reference to the time when P ceases to be in employment which is contracted-out by reference to the new scheme; and
- (b) subsequent references to “the cessation date” are to be construed accordingly.

Transfer Values

10.—(1) Chapter 4 of Part 4 of the 1993 Act 1993 (protection for early leavers: transfer values) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme, in—

- (a) section 89(1)(a)(**7**) (scope of chapter 4),
- (b) section 93(3)(a) (calculation of cash equivalents), and

(5) Section 79 was amended by Article 74(1) of, and paragraph 20 of Schedule 9 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraph 21 of Schedule 8 to, the Public Service Pensions Act (Northern Ireland) 2014 (c.2) (N.I.)

(6) Section 83 was amended by section 13(3) (a) of, and paragraph 28 of Schedule 4 to, the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)).

(7) Section 89(1)(a) was substituted by Article 148 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

(c) section 94(1A) and (3)(8) (variation and loss of rights under section 90), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme.

Transfer values regulations

11.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽⁹⁾ are modified as follows.

(2) In the application of regulation 3 of those Regulations (rules on continuation in employment after termination of pensionable service) to P as a member of the old scheme—

- (a) in paragraph (1), a reference to employment to which a scheme applies is to be taken as a reference to employment to which the new scheme applies;
- (b) in paragraph (1)(a), a reference to P's pensionable service terminating at P's request is to be taken as a reference to P's pensionable service in relation to the new scheme so terminating; and
- (c) in paragraph (1)(b)(i), a reference to P's pensionable service continuing until the guarantee date is to be taken as a reference to P's pensionable service in relation to the new scheme so continuing.

(3) In the application of regulation 4 of those Regulations (right to further cash equivalent on termination of employment to which the scheme applies) to P as a member of the old scheme, in paragraphs (1), (2), (3)(a) and (4), a reference to termination of P's employment is to be taken as a reference to termination of P's employment to which the new scheme applies.

Cash transfers and contribution refunds

12.—(1) Chapter 5 of Part 4 of the 1993 Act⁽¹⁰⁾ (protection for early leavers: cash transfers and contribution refunds) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 97AA(1)(a) and (b) (scope of Chapter 5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;
- (b) in section 97AA(2), the reference in the opening words in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old and new schemes taken together; and
- (c) in section 97AB(1) and (3) (right to cash transfer sum and contribution refund), 97AC(1) and (2)(a) (notification of right to cash transfer sum or contribution refund) and 97AI(6) (rights under section 97AB: definition of "reply date"), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme.

(3) In the application of that Chapter to P as a member of the new scheme, in section 97AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the new scheme or for the old and new schemes taken together.

⁽⁸⁾ Section 94(1A) was inserted by, and section 94(3) amended by, Article 165 of, and paragraph 7 of Schedule 4 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))

⁽⁹⁾ S.R. 1996 No. 619.

⁽¹⁰⁾ Chapter 5 was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)).

