

**2004 No. 103**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Health and Personal Social Services (Superannuation)  
(Amendment) Regulations (Northern Ireland) 2004**

*Made* - - - - - *11th March 2004*

*Coming into operation* *11th May 2004*

The Department of Health, Social Services and Public Safety<sup>(a)</sup> in exercise of the powers conferred upon it by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972<sup>(b)</sup> 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) 2004.

(2) These Regulations shall come into operation on 11th May 2004 and shall have effect from 5th April 2002.

**Interpretation**

2. In these Regulations “the principal Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995<sup>(c)</sup>.

**Amendment of regulation 5 of the principal Regulations**

3. In regulation 5(1) (Meaning of qualifying service) –

(a) at the end of paragraph 1(b) the word “and” shall be deleted;

(b) after paragraph (1)(b) there shall be inserted the following sub-paragraph –

“(ba) in the case of a person who –

(i) has become a member on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer; and

(ii) has rights under another occupational pension scheme to which he was eligible to belong in his former employment in respect of which no transfer payment has been accepted under regulation 60(1) or 63;

the period of employment that qualified the member for those rights; and”;

(c) after paragraph (4) there shall be inserted the following paragraph –

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(a) See S.I. 1999/283 (N.I. 1): Article 3(6)

(b) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)

(c) S.R. 1995 No. 95: relevant amending instrument is S.R. 1997 No. 217

“(4A) Where a member who is employed on a casual basis –

(a) ceases to pay contributions because of a break in his superannuable employment of a period not exceeding 3 months, and

(b) re-enters superannuable employment on the same basis after the break,

for the purposes of these Regulations he is treated as continuing to be in qualifying service, (but not superannuable service) during the break, and as not being required to rejoin the Scheme when he re-enters superannuable employment.”.

#### **Amendment to regulation 53 of the principal Regulations**

4.—(1) In regulation 53(1) (Member’s right to transfer or buy out) the words “with a preserved pension before reaching age 60” shall be omitted.

(2) After regulation 53(1) there shall be inserted the following paragraph –

“(1A) Paragraph (1) only applies if the member –

(a) leaves superannuable employment with a preserved pension before reaching age 60, or

(b) leaves superannuable employment on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer.”.

#### **Amendment to regulation 54 of the principal Regulations**

5. After regulation 54(4) (Exercising a right to transfer or buy-out) there shall be inserted the following paragraph –

“(4A) Paragraph (2) does not apply if the member exercises the right to require a transfer on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer.”.

#### **Amendment of regulation 58 of the principal Regulations**

6. For regulation 58 (Transfers in respect of more than one member) there shall be substituted –

##### **“Special terms for transfers out**

58.—(1) If one or more members (“the transferring members) –

(a) leave superannuable employment;

(b) join another occupational pension scheme; and

(c) exercise a right to transfer to that scheme under regulation 54 (Exercising a right to transfer or buy-out)

the Department may, after taking advice from the Government Actuary, make a single transfer payment to that scheme in respect of the transferring members.

(2) The Department must calculate the amount of any transfer payment paid after taking advice from the Government Actuary.”.

#### **Amendment of regulation 60 of the principal Regulations**

7.—(1) In regulation 60(3) (Member’s right to transfer accrued rights to benefits to the scheme) at the beginning of sub-paragraph (a) the words “except where paragraph (3A) applies” shall be inserted.

(2) After Regulation 60(3) there shall be inserted –

“(3A) This paragraph applies where the member’s employment is transferred to a new employer on the transfer of his employment to a new employer as the result of a transfer of an undertaking to that employer.”.

**Amendment of regulation 63 of the principal Regulations**

8. For regulation 63 (Transfers in respect of more than one member) there shall be substituted –

**“Special terms for transfers in (bulk transfers etc.)**

**63.**—(1) This regulation applies where one or more members of another occupational pension scheme (“the transferring members”) –

- (a) cease to be in superannuable employment under that scheme,
- (b) join this scheme, and
- (c) consent in writing to a transfer payment being accepted in respect of them and superannuable service being credited to them as mentioned in paragraphs (2) and (3).

(2) The Department may, after taking advice from the Government Actuary, accept a single transfer payment in respect of the transferring members.

(3) Where such a transfer payment is accepted, each of the transferring members must be credited with such additional period of superannuable service as the Department determines to be appropriate after taking advice from the Government Actuary.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 11th March 2004.

(L.S.)

*D. C. Bingham*

Senior Officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 11th March 2004.

(L.S.)

*Ciaran Doran*

Senior Officer of the Department of Finance and Personnel

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations further amend the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland 1995 (S.R. 1995 No. 95), “the principal Regulations”, which provide for the superannuation of persons engaged in the Health and Personal Social Services in Northern Ireland.

The Regulations shall have retrospective effect, as authorised by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

Regulations 1 and 2 provide the citation, commencement, retrospective effect and interpretation of the Regulations.

Regulation 3 amends regulation 5 of the principal Regulations (Meaning of qualifying service) and enables service which a member could count in a previous scheme and which has not been credited to the Scheme when the member transferred to it as a result of a transfer of an undertaking, to count as qualifying service. It also enables members employed on a casual basis to continue in qualifying service during short breaks in employment.

Regulations 4, 5 and 6 amend Part VI of the principal Regulations (Transfers and buy-outs), namely regulations 53, 54 and 58, so as to entitle members to a transfer payment where they leave after reaching age 60 as a result of a transfer of an undertaking, and to enable special terms to be applied where one member so transfers.

Regulations 7 to 8 make parallel amendments to regulations 60 and 63 of the principal Regulations (Transfers from other pension arrangements) so as to enable transfer payments to be accepted for members who have reached age 60 and payments to be accepted on special terms for a single member.

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