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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 410**

The Health and Personal Social Services  
(Superannuation Scheme, Injury Benefits  
and Additional Voluntary Contributions)  
(Amendment) Regulations (Northern Ireland) 2006

**Insertion of new regulation 89A in the Superannuation Scheme Regulations**

16. After regulation 89 of the Superannuation Scheme Regulations (Deduction of tax) insert—

**“Deduction of tax: further provisions**

**89A.**—(1) Where a person’s entitlement to a benefit under these Regulations—

- (a) constitutes a benefit crystallisation event in accordance with section 216 of the 2004 Act; and
- (b) a lifetime allowance charge under that Act is payable in respect of that event,

that charge shall be paid by the Department.

(2) Where a person’s entitlement to a benefit under these Regulations constitutes a relevant benefit accrual he may, at the time he applies for the benefit, notify the Department in writing that he wishes to waive his right to that part of it that exceeds the appropriate limit.

(3) Where the Department receives a notification referred to in paragraph (2), it shall issue the person with a “waiver form” to be completed by him and returned to the Department and which shall, upon receipt by the Department, be irrevocable.

(4) A valid waiver shall have the effect of reducing the value of benefits payable to, or in respect of, the person below his relevant benefit accrual level as determined in accordance with Schedule 36 of the 2004 Act whether or not the benefit crystallisation event in respect of those benefits occurs before, or after, the receipt of the waiver.

(5) A waiver shall not affect—

- (a) a person’s or an employing authority’s liability to pay contributions whether in respect of any period before, or after, the date a person’s waiver is received by the Department;
- (b) the operation of regulations 18 (Member dies in superannuable employment), 19 (Member dies after pension becomes payable), 23 to 31C(1) (Widows and Widowers), 32 to 38 (Child Allowance) and the benefits mentioned in those Regulations.]

(6) Where a person is entitled to a benefit under these Regulations he shall (whether or not he intends to rely on entitlement to an enhanced lifetime allowance, or to enhanced protection) give to the Department such information as will enable the Department to determine—

- (a) whether any lifetime allowance is payable in respect of the benefit and, if so,
- (b) the amount of that charge.

(7) If a person applying for a benefit under these Regulations intends to rely on entitlement to an enhanced lifetime allowance by virtue of any of the provisions listed in section 256(1) of the 2004 Act (Enhanced lifetime allowance regulations), he shall give to the Department—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006<sup>(2)</sup> in respect of that entitlement;
- (b) the information referred to in paragraph (6).

(8) The information referred to in paragraph (6) or, as the case may be, paragraph (7) shall be given to the Department

- (a) at the time the person makes a claim for a benefit; or
- (b) where that information has not been provided at the time of making the claim, within such time as the Department specifies in writing.

(9) Where the person fails to provide all, or part of, the information referred to in paragraph (6) or, as the case may be, paragraph (7) within the time limits specified by the Department where relevant, the Department may treat the whole of the benefit as a chargeable benefit and pay the charge on that basis.

(10) Subject to regulation 19(4)(b)<sup>(3)</sup>, where—

- (a) a member has given notice to the Department in accordance with regulation 19(3) that a lump sum payable under that regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the 2004 Act, and
  - (b) has not revoked that notice,
- the Department shall deduct tax at 35 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of that Act.

(11) For the purposes of this regulation “appropriate limit” and “relevant benefit accrual” are to be construed in accordance with Schedule 36 to the 2004 Act.”

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(2) S.I. 2006/131

(3) Regulation 19(4) is inserted pursuant to regulation 10 of these Regulations