
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 350

**The Health and Personal Social Services (Superannuation)
(Additional Voluntary Contributions, Injury Benefits
and Compensation for Premature Retirement)
(Amendment) Regulations (Northern Ireland) 2008**

**Amendments to the Health and Personal Social Services (Injury Benefits) Regulations
(Northern Ireland) 2001**

3.—(1) The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(1) shall be amended as provided by paragraphs (2) to (10).

(2) In regulation 2(1) (Interpretation)—

(a) omit the definitions of “the superannuation scheme regulations”, “average remuneration”, “GMS contract”, “GMS practice”, “non-GP provider”, “practitioner”, “registered dentist” and “the Scheme”;

(b) insert the following definitions at the appropriate places in alphabetical order—

““the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993(2);”;

““the 1995 Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(3);”;

““the 2008 Regulations” means the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(4);”;

““APMS contract” means arrangements under Article 56 (2)(b) of the 1972 Order (primary medical services) between a Health and Social Services Board and an APMS contractor;”;

““APMS contractor” means a person—

(a) with whom a Health and Social Services Board has made arrangements under Article 56 (2)(b) of the 1972 Order, and

(b) who has entered into, or would be eligible to enter into, a GMS contract for the provision of primary medical services;”;

““average remuneration” means—

(a) in relation to a practitioner, the yearly average of such amount as would be or would have been his uprated earnings within the meaning of whichever of the following is applicable—

(i) paragraph 11(2) of Schedule 2 to the 1995 Regulations, as a practitioner to whom those Regulations apply;

(1) S.R. 2001 No. 367 as amended by S.R. 2005 Nos. 533 and 565, S.R. 2006 Nos. 159 and 410 and S.R. 2008 No. 130
(2) 1993 c. 48.
(3) S.R. 1995 No. 95
(4) S.R. 2008 No. 256

- (ii) regulation 176(4)(b) of the 2008 Regulations, as a practitioner to whom those Regulations apply;
- (b) in relation to a person other than a practitioner, such amount as would be or would have been—
 - (i) his final year’s superannuable pay under regulation 3(6) of the 1995 Regulations, as an officer to whom those Regulations apply (assuming, in the case of a person to whom regulation 3(1)(c) applies, that he was in receipt of the superannuable pay which would, in the opinion of the Department, have been payable if he were employed whole-time by an employing authority on similar duties); or
 - (ii) his reckonable pay under regulation 15 of the 2008 Regulations, as the case may be, calculated as if he had retired—
 - (aa) in the case of a person eligible for an allowance under regulation 4(3), on the date on which he ceased to be employed as a person to whom regulation 3(1) applies;
 - (bb) in the case of a person eligible for an allowance under regulation 4(4) or (5), on the date on which his emoluments were reduced;
 - (cc) in the case of any other person, on the date on which by reason of the injury or disease his employment ceased:

Provided that in respect of a person to whom regulation 3(1)(a) applies who, immediately before he ceased to be employed by reason of the injury or disease or as a person to whom regulation 3(1) applies, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as a senior registrar, registrar, specialist registrar, senior house officer or house officer, average remuneration shall be increased to the amount which in the opinion of the Department represents the average remuneration of a general medical practitioner, or a general dental practitioner, as the case may be, of comparable age;”;

““dentist performer” has the same meaning as it has in Part 3 of the 2008 Regulations;”;

““GDS arrangements” means general dental services arrangements made under Article 61 of the 1972 Order;”;

““GMS contract” means a contract under Articles 57 and 57A of the 1972 Order or under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004(5);”;

““GMS practice” means—

- (a) a registered medical practitioner; or
- (b) two or more individuals practising in partnership; or
- (c) a company limited by shares,

with whom a Health and Social Services Board has entered into a GMS contract;”;

““medical performers list” means a list of registered medical practitioners prepared and published in accordance with the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(6);”;

“non-GP provider” means—

(5) S.R. 2004 No. 141

(6) S.R. 2004 No. 149 as amended by S.R. 2005 No. 230

- (a) a partner in a partnership that is a GMS practice who is not a GP provider and who demonstrates to the satisfaction of the Department that he assists in the provision of health and personal social services provided by that practice;
 - (b) a partner in a partnership that is an APMS contractor that has entered into an APMS contract for the provision of primary medical services—
 - (i) but who is not a GP provider; and
 - (ii) who demonstrates to the satisfaction of the Department that he assists in the provision of health and personal social services provided by that partnership;
 - (c) a shareholder in a company limited by shares that is—
 - (i) a GMS practice; or
 - (ii) an APMS contractor that has entered into an APMS contract for the provision of primary medical services,
but who is not a GP provider and who demonstrates to the satisfaction of the Department that he assists in the provision of health and personal social services provided by that company;
 - (d) an individual who is an APMS contractor but who is not a GP provider and who demonstrates to the satisfaction of the Department that he participates in the provision of health and personal social services;”;
““surviving partner” means a widow, widower, surviving civil partner or surviving nominated partner;”;
““the Scheme” means the Health and Social Care Superannuation Scheme, the rules of which are set out in the 1995 Regulations and the 2008 Regulations, as the case may be;”;
 - (c) in the definition of “OOH provider”, for “2A of the Superannuation Scheme Regulations” substitute “152 of the 2008 Regulations”.
- (3) In regulation 2(2), after “child’s allowance” add “or child’s pension”.
- (4) After regulation 2 insert—

“Meaning of “practitioner”

2A.—(1) In these Regulations “practitioner” means, in relation to a person who is or is eligible to be a member of the Scheme the rules of which are set out in the 1995 Regulations, a person, other than a locum practitioner—

- (a) to whom regulation 74(1) or (2) of the 1995 Regulations applies (or would apply if he had been a member of the Scheme at the date he sustains an injury, or contracts a disease, to which these Regulations apply); and
- (b) who is performing services—
 - (i) in the case of a registered medical practitioner, under a GMS contract or an APMS contract; or
 - (ii) in the case of a dentist performer, under GDS arrangements.

(2) In these Regulations “practitioner” means, in relation to a person who is or is eligible to be a member of the Scheme the rules of which are set out in the 2008 Regulations, a person, other than a locum practitioner, who is (or was if he had been a member of that Scheme at the date he sustains an injury, or contracts a disease, to which these Regulations apply)—

- (a) a registered medical practitioner and—
 - (i) a GP provider; or

- (ii) a GP performer, or
 - (b) a dentist performer,
 who is performing services—
 - (i) in the case of a registered medical practitioner, under a GMS contract or an APMS contract; or
 - (ii) in the case of a dentist performer, under GDS arrangements.”.
- (5) In regulation 4 (Scale of benefit)—
 - (a) in paragraph (3), for “age 60” (where twice occurring) substitute “normal benefit age”;
 - (b) in paragraph (6)(a), for “superannuation scheme Regulations” substitute “1995 Regulations or regulation 129, 253, 130 or 254 (Reduction in benefits in cases where loss caused by member’s crime, negligence or fraud and forfeiture of rights to benefits) of the 2008 Regulations”;
 - (c) after paragraph (9) add—
 - “(10) In this regulation, “normal benefit age” means—
 - (a) in respect of a person who is or is eligible to be a member of the Scheme the rules of which are set out in the 1995 Regulations, 60;
 - (b) in respect of a person who is or is eligible to be a member of the Scheme the rules of which are set out in the 2008 Regulations, 65.”.
- (6) In regulation 8 (Widow's, widower's or surviving civil partner's allowance)—
 - (a) for the heading to that regulation substitute “Surviving partner allowances” ;
 - (b) in paragraph (1), for “widow, widower or surviving civil” (where twice occurring) substitute “surviving”;
 - (c) in paragraph (2), for “widow, widower or surviving civil” substitute “surviving”;
 - (d) for paragraph (3) substitute—
 - “(3) Except if paragraph (3A) applies, a surviving partner is not entitled to receive an allowance—
 - (a) if the marriage took place, the civil partnership was formed or the nomination was made after—
 - (i) the deceased last ceased to be employed as a person to whom these Regulations apply; or
 - (ii) the date on which his or her earning ability was permanently reduced as a result of the injury or disease,
 whichever is the later;
 - (b) if at the date of the deceased's death such surviving partner and a man or, as the case may be, a woman to whom she or he is—
 - (i) not married; or
 - (ii) with whom she or he is not in a civil partnership; or
 - (iii) are living together as husband and wife or as civil partners; or
 - (c) in respect of any period after such surviving partner—
 - (i) remarries or forms a civil partnership; or
 - (ii) during which she or he lives together with another person as if she or he were married to or in a civil partnership with that other person,

but where such marriage or civil partnership has terminated, the Department may restore an allowance to a surviving partner if the Department is satisfied that such surviving partner is suffering hardship.”.

- (7) In regulation 9 (Child’s allowance)—
- (a) in paragraph (2)(c), for “or civil partner” substitute “, civil partner or nominated partner”;
 - (b) For paragraph (6), substitute—

“(6) In this regulation, the “allowable maximum” means the amount to which a pension under the 1995 Regulations or the 2008 Regulations (as the case may be) of £2404 a year beginning on 9th April 2007 would have been increased under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 at the date in question, plus the yearly amount of any expenses necessarily incurred for the purposes of the education or training.”.
- (8) In regulation 10 (Dependent relative’s allowance)—
- (a) in paragraph (1)(a), for “or civil partner's” substitute “, civil partner’s or nominated partner's”;
 - (b) in paragraph (2)—
 - (i) for “widow, widower or surviving civil” substitute “surviving”;
 - (ii) omit “spouse or civil” (where twice occurring).
- (9) In regulation 12(1) (Lump sum payment on death)—
- (a) in sub-paragraph (a), for “widow, widower or surviving civil” substitute “surviving”;
 - (b) in sub-paragraph (b), for “or civil partner” substitute “, civil partner or nominated partner”.
- (10) In regulation 13(3) (Incidental provisions), for “widow's, the widower’s or the surviving civil” substitute “surviving”.