

2010 No. 420

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation),
Health and Social Care (Pension Scheme) (Amendment)
Regulations (Northern Ireland) 2010**

Made - - - - *15th December 2010*

Coming into operation - *20th January 2011*

The Department of Health, Social Services and Public Safety, with the consent of the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 12(1) and (2), 14(1), (2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a).

In accordance with Article 12(4) of that Order, the Department has consulted with representatives of persons likely to be affected by these Regulations, as appeared to the Department to be appropriate.

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010.

(2) These Regulations come into operation on 20th January 2011 and, save as provided in paragraphs (3), (4) and (5), have effect from that date.

(3) Regulation 7 shall have effect from 13th October 2008.

(4) The following regulations have effect from 1st November 2009—

(a) regulation 6;

(b) regulation 10.

(5) Regulation 5 shall have effect from 6th April 2010.

PART 2

Amendment of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995

Part 2: General

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(a) are amended as provided by regulations 3 to 8.

3.—(1) Regulation 10 (Contributions by members) is amended as provided by paragraphs (2) to (6).

(2) For paragraph (1A), substitute—

“(1A) A member whose superannuable pay falls into a pay band specified in column 1 of the relevant table must contribute the percentage of the member’s superannuable pay specified in column 2 of that table in respect of that amount.”.

(3) For paragraph (2), substitute—

“(2) The superannuable pay bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.”.

(4) Omit paragraph (2A).

(5) After paragraph (2B)(b), add—

“(c) “relevant table” means—

- (i) in respect of the 2010-2011 scheme year, table 1 where paragraph (2C) applies and table 2 if paragraph (2Q), (2R) or (2V) applies;
- (ii) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i> <i>Superannuable Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i> <i>Superannuable Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.”

(6) In paragraphs (2E) to (2R) and (2V), for “the table in paragraph (1A)” in each place substitute “the relevant table in paragraph (2B)”.

(a) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390; S.R. 1998 No.299; S.R. 1999 No.293; S.R. 2002 No.69; S.R. 2004 Nos.103 and 104; S.R. 2005 Nos.155, 533, 534 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.96, 130 and 163; S.R. 2009 Nos.65 and 188; S.R. 2010 Nos.22 and 286

Amendment of regulation 11

4. For paragraphs (1) and (2) of regulation 11 (Contributions by employing authorities), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the superannuable pay of each member in superannuable employment with the authority, at the rate specified in paragraph (2) (“the employer’s standard rate”).

(1A) The employer’s standard rate shall include the cost of providing any increases in pensions which are payable by virtue of Part 1 of the Pensions (Increase) Act (Northern Ireland) 1971(a).

(2) The employer’s standard rate is 13.3 per cent.”.

Amendment of Part IV

5.—(1) Part IV (Contracting-out requirements) is amended as provided by paragraphs (2) and (3).

(2) After paragraph (3)(c) of regulation 42 (Contracting-out conditions to be overriding), insert—

“(ca) “guaranteed minimum pension age” means age 65 in the case of a man or age 60 in the case of a woman;”.

(3) For “State pension age” substitute “guaranteed minimum pension age”, in—

- (a) paragraphs (2) and (7)(a) of regulation 43 (Guaranteed minimum pensions),
- (b) regulation 44 (Late retirement),
- (c) paragraph (1) of regulation 45 (Early leavers) (three times),
- (d) paragraphs (1), (2) and (3) of regulation 46 (Guaranteed minimum pensions transferred to this Section of the scheme).

Amendment of regulation 97

6.—(1) Regulation 97 (Accounts and actuarial reports) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (3), for “The Scheme Actuary” substitute “Subject to paragraph (3A), the Scheme Actuary”.

(3) After paragraph (3), add—

“(3A) The actuarial report referred to in paragraph (3) shall be based on actuarial assumptions determined by the Department following the consent of the Department of Finance and Personnel.

(3B) Before determining the assumptions referred to in paragraph (3A) the Department may consult—

- (a) such representatives of employees and employing authorities as appear to the Department to be appropriate, and
- (b) the Scheme Actuary.”.

New regulation 97B

7. After regulation 97A (Cost sharing) insert—

(a) 1971 c.35 (N.I.)

“Interest on late payment of benefits and refunds of contributions

97B.—(1) This regulation applies if the whole or part of an amount to which this regulation applies is not paid by the end of the period of one month beginning with the due date.

(2) This regulation applies to any amount payable by way of a pension, lump sum or refund of contributions under this Section of the Scheme (other than any amount due under regulation 11) or interim or substitute award.

(3) The Department must pay interest on the amount of a pension, lump sum, refund of contributions or an interim or substitute award which is unpaid (“the unpaid amount”) to the person to whom it should have been paid unless the Department is satisfied that the unpaid amount was not paid on the due date because of some act or omission on the part of the member or other person to whom it should have been paid.

(4) The interest on the unpaid amount is calculated at the base rate on a day to day basis from the due date for the amount to the date of its payment and compounded with three-monthly rests.

(5) For the purposes of this regulation, except where paragraph (6) applies, “due date”, in relation to an unpaid amount (other than an unpaid amount in respect of an interim or substitute award), means—

- (a) in the case of an amount in respect of a pension or lump sum payable to a member under Part III (Benefits), the day immediately following that of the member’s retirement from superannuable employment,
- (b) in the case of an amount in respect of a pension payable on a member’s death, the day after the date of death,
- (c) in the case of an amount in respect of a lump sum under Part III (Lump sum on death) that is payable to the member’s personal representatives, the earlier of—
 - (i) the date on which probate or letters of administration were produced to the Department, and
 - (ii) the date on which the Department was satisfied that the lump sum may be paid as provided in regulation 22(10), and
- (d) in the case of an amount in respect of any other lump sum under Part III, the day after the date of the member’s death, and
- (e) in the case of an amount in respect of a refund of contributions, the day after that on which the Department received from Her Majesty’s Commissioners of Revenue and Customs the information required for the purposes of calculating the amount to be subtracted under regulation 50(4) or (5).

(6) The due date for an unpaid amount—

- (a) referred to in paragraph (5) in respect of which the Department was not in possession of all the information necessary for the calculation of the amount of the pension, lump sum or refund of contributions referred to in that paragraph on the date which would, in accordance with paragraph (5) be the due date;
- (b) in respect of an interim or substitute award,

shall be the first day on which the Department was in possession of all the information necessary to calculate that pension, lump sum, refund of contributions or interim or substitute award.

(7) In this regulation—

- (a) “interim or substitute award” means—
 - (i) any amount paid by way of an interim payment calculated by reference to an expected benefit under this Section of the Scheme pending final calculation of the full value of that benefit,

- (ii) any amount paid that increases the amount of an earlier payment due to a backdated or subsequent increase in superannuable pay, and
 - (iii) any amount paid that increases the amount of an earlier payment due to the payment of a tier 2 ill-health pension under regulation 13A paid to a member in substitution for a tier 1 ill-health pension under that regulation following a determination by the Department under regulation 13B;
- (b) “base rate” means the Bank of England base rate—
- (i) announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
 - (ii) where an order under section 19 of the Bank of England Act 1998(a) is in force, any equivalent rate determined by the Treasury under that section.”.

Amendment of Schedule 2

8.—(1) Paragraph 10 (Contributions to this Section of the scheme) of Schedule 2 (Medical and dental practitioners) is amended as provided by paragraphs (2) to (5).

(2) After sub-paragraph (1) add—

“(1A) For the purposes of this paragraph, “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.”

(3) For sub-paragraph (2) to (2B), substitute—

“(2) Subject to sub-paragraph (2A), a member whose superannuable earnings fall into a superannuable earnings band specified in column 1 of the relevant table must contribute the percentage of the member’s superannuable earnings specified in column 2 of that table in respect of that amount.

(2A) The superannuable earnings bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.”.

(4) In sub-paragraphs (2H), (2I), (2K) and (2L), for “the table in sub-paragraph (2)” in each place substitute “the relevant table in sub-paragraph (1A)”.

(a) 1998 c.11

(5) For sub-paragraph (18), substitute—

“(18) For the purposes of this paragraph—

- (a) “regulation 10 contributions” means contributions payable under regulation 10 by a practitioner or, as the case may be, a non-GP provider under this Section of the scheme;
- (b) “regulation 11(1) contributions” means contributions payable under regulation 11(1) by an employing authority in respect of a practitioner or, as the case may be, a non-GP provider.”.

PART 3

Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

Part 3: General

9. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(a) are amended as provided by regulations 10 to 18.

Amendment of regulation 3

10.—(1) Regulation 3 (Actuarial reports and accounts) is amended as provided by paragraphs (2) and (3).

(2) At the end of paragraph (4), add (as full out words), “This is subject to paragraph (5).”.

(3) After paragraph (4), add—

“(5) The actuarial report referred to in paragraph (4) shall be based on actuarial assumptions determined by the Department following the consent of the Department of Finance and Personnel.

(6) Before determining the assumptions referred to in paragraph (5) the Department may consult—

- (a) such representatives of employees and employing authorities as appear to the Department to be appropriate, and
- (b) the Scheme Actuary.”.

Substitution of regulation 27

11. For regulation 27 (Contributions by members), substitute—

“27 Contributions by members

(1) Each active member must make contributions to this Section of the Scheme (“member contributions”) in respect of—

- (a) the member’s pensionable pay in accordance with regulation 28 where the member is not a non-GP provider;
- (b) the member’s pensionable earnings in accordance with regulation 30 where the member is a non-GP provider.

(2) Member contributions must be made—

- (a) until the member completes 45 years’ pensionable service, or

(a) S.R. 2008 No.256 as amended by S.R. 2009 Nos. 65 and 188; S.R. 2010 Nos. 22 and 286

(b) where the notice required by regulation 7(3) has been properly received, until the member ceases officer service.

(3) In the case of a member who is not a non-GP Provider, the member’s employing authority must deduct member contributions from the member’s pensionable pay and pay them to the Department not later than the 19th day of the month following the month in which the pay was paid to the member.

(4) In the case of a member who is a non-GP Provider, the host Board must pay to the Department contributions under this regulation paid to it by the non-GP provider or paid to it by another employing authority not later than the 19th day of the month following the month in which the earnings were paid to the non-GP Provider.

(5) Paragraph (6) applies where a member has failed to pay member contributions or an employing authority has failed to deduct such contributions in accordance with this regulation.

(6) The Department may recover any sum that remains due in respect of contributions referred to in paragraph (5) by deduction from any payment by way of benefits to, or in respect of, the member if—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member’s advantage.

(7) Paragraph (6) is without prejudice to any other method of recovery the Department may have.

(8) A member who is absent from service in circumstances within regulation 9(1) to (3), may make contributions to this Section of the Scheme in respect of the member’s pensionable pay or, as the case may be, pensionable earnings in accordance with that regulation and whichever of regulation 28 or 30 applies to that member.

(9) If, apart from this paragraph, the pay or, as the case may be, earnings for a scheme year in respect of a member’s service would not be a whole number of pounds, that pay or, as the case may be, those earnings must be rounded down to the nearest whole pound.”.

Substitution of regulation 28

12. For regulation 28 (Members’ contribution rate), substitute—

“28 Contribution rate for members other than non-GP providers

(1) Contributions under regulation 27(1)(a) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

(3) The pensionable pay bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.

(4) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2010-2011 scheme year, table 1 where paragraph (2) of regulation 29 applies and table 2 if paragraph (16), (17) or (21) of that regulation applies;
- (b) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.

Amendment of regulation 29

13.—(1) Regulation 29 (Employees) is amended as provided by paragraphs (2) to (4).

(2) For the heading, substitute “**29 Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP Providers**”.

(3) In paragraphs (4) to (17) and (21), for “the table in paragraph (2)” in each place substitute “the relevant table in paragraph (4)”.

(4) In paragraph (26), for “the 2008-2009 scheme year” substitute “the current scheme year”.

Substitution of regulation 30

14. For regulation 30 (Non-GP Providers), substitute—

“30 Contribution rate and determination of pensionable earnings for non-GP providers

(1) Member contributions payable by a non-GP Provider under regulation 27(1)(b) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (14) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings falls.

(3) The pensionable earnings bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.

(4) Paragraph (5) applies where, in respect of a scheme year, a non-GP provider—

- (a) has certified their pensionable earnings in accordance with regulation 136 and forwarded a record of those earnings to the host Board, or
- (b) was not required to certify their earnings in accordance with that regulation but the host Board has the figure that represents the non-GP provider’s pensionable earnings for that scheme year.

(5) In the circumstances referred to in paragraph (4), contributions payable for the scheme year in question shall be those specified in column 2 of the relevant table in paragraph (14) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to—

- (a) the certified or final pensionable earnings from all non-GP provider sources, and
- (b) any additional pensionable earnings the non-GP provider is treated as having received during a break in service in accordance with regulation 14.

(6) If paragraph (4) does not apply to a non-GP provider in respect of a scheme year, that non-GP provider shall pay contributions at the rate in column 2 of the relevant table in paragraph (14), on the basis of whichever of the following the host Board considers the most appropriate in the circumstances—

- (a) an amount of the non-GP provider’s earnings that has been agreed between the host Board on the one hand and the non-GP provider on the other hand;

- (b) an amount of the non-GP provider’s earnings that corresponds to that non-GP provider’s most recent certified or final pensionable earnings referred to in paragraph (4); or
- (c) an amount of such earnings that corresponds to the host Board’s estimate of that non-GP provider’s pensionable earnings from all non-GP provider sources for that year.

This is subject to paragraph (7).

(7) If paragraph (6) applies to a non-GP provider in respect of a scheme year and paragraph (4)(a) or (b) is subsequently satisfied in respect of that scheme year, that non-GP provider shall pay contributions at the rate determined in accordance with paragraph (5).

(8) A host Board may adjust a non-GP provider’s contribution rate for any scheme year determined in accordance with paragraph (6)—

- (a) by agreement between the host Board on the one hand and the non-GP provider on the other hand, or
- (b) without such agreement, if the host Board is satisfied that pensionable earnings of the non-GP provider will exceed the amount used to determine the contribution rate in accordance with that paragraph.

(9) If a member is in non-GP provider service and concurrently in practitioner service in respect of which the member is liable to pay contributions in accordance with regulation 160, contributions payable in respect of the member’s non-GP provider service shall be determined under this regulation and contributions payable in respect of the member’s practitioner service shall be determined under regulation 161.

(10) In determining member contributions payable in accordance with this regulation, a host Board must take account of pensionable earnings from all non-GP provider sources, including any pensionable earnings as a non-GP provider determined by another host Board.

(11) An employing authority that is not a host Board shall, in respect of any pensionable earnings it pays to a non-GP provider, take advice from any relevant host Board in determining the contributions payable in accordance with this regulation.

(12) Where paragraph (13) does not apply, a non-GP provider shall pay member contributions to the host Board.

(13) If a non-GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority must—

- (a) deduct contributions due under this regulation from any pensionable earnings it pays that person, and
- (b) if it is not also the host Board, pay those contributions to that Board not later than the 7th day of the month following the month in which the earnings were paid.

(14) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.

Substitution of regulation 31

15. For regulation 31 (Contributions by employing authorities: general), substitute—

“31 Contributions by employing authorities: general

(1) The employing authority of a member who is an active member of this Section of the Scheme under this Part must contribute to the scheme, in respect of the pensionable pay, or as the case may be, pensionable earnings of that member, at the rate specified in paragraph (4) (“the employer’s standard rate”).

(2) In specifying the employer’s standard rate, the Department must—

- (a) obtain the consent of the Department of Finance and Personnel, and
- (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under this Section of the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971 and Article 69 of the Social Security Pensions (Northern Ireland) Order 1975(a).

(3) If for any period a person holds more than one employment (whether under a contract of service or for services) with an employing authority in respect of which the person is an active member of the Scheme, this regulation and regulation 32 apply in respect of each of those employments as if it were the only employment held.

(4) The employer’s standard rate is 13.3%.

(5) In any particular case the Department may direct that, for the purposes of this Chapter, “employing authority” includes one or more of—

- (a) a successor, transmittee or assignee of an employing authority’s business or functions;
- (b) the last employing authority of a person to whom these Regulations apply.

(6) If a non-GP provider is—

- (a) an employing authority which is a GMS practice or an APMS contractor, or
- (b) a shareholder or partner in such an employing authority,

that employing authority shall pay employer’s standard rate contributions to the host Board not later than the 7th day of the month following the month in which the earnings were paid.

This is subject to paragraph (7).

(7) If a non-GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (6), each employing authority must pay employer’s standard rate contributions on any pensionable earnings it pays to the non-GP provider or, as the case may be, on the non-GP provider’s share of the partnership profits, to the host Board not later than the 7th day of the month following the month in which the earnings were paid.

(8) If paragraph (13) of regulation 30 applies (but paragraph (6) of this regulation does not) and the employing authority referred to in regulation 30(13)—

(a) S.I. 1975/1503 (N.I.15)

- (a) is not the host Board, that authority must pay employer’s standard rate contributions under this regulation to the host Board not later than the 7th day of the month following the month in which the earnings were paid;
 - (b) is the host Board, that Board must pay employer’s standard rate contributions under this regulation to the Department in respect of any pensionable earnings it pays to the non-GP provider.
- (9) Not later than the 19th day of the month following the month in which pensionable pay or, as the case may be, pensionable earnings are paid to a member, the employer’s standard rate contributions under this regulation must be paid to the Department—
- (a) in the case of a member other than a non-GP provider, by that member’s employing authority,
 - (b) in the case of a non-GP provider, by the host Board.”.

Amendment of regulation 160

16. In paragraph (1) of regulation 160 (Contributions by members), after “Scheme” insert “(“member contributions”)”.

Amendment of regulation 161

17.—(1) Regulation 161 (Members’ contribution rate) is amended as provided by paragraphs (2) to (4).

(2) For paragraphs (1) to (4), substitute—

“(1) Contributions under regulation 160(1) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (17) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings falls.

(3) The pensionable earnings bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.”.

(3) In paragraphs (5), (6), (8) and (9), for “the table in paragraph (2)” in each place substitute “the relevant table in paragraph (17)”.

(4) After paragraph (16), add—

“(17) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%

Amendment of regulation 162

18.—(1) Regulation 162 (Contributions by employing authorities: general) is amended as provided by paragraphs (2) and (3).

(2) For paragraph (1), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable earnings of each person who is an active member of the scheme in an employment with the authority, at the rate specified in paragraph (5) (“the employer’s standard rate”).”

(3) For paragraph (5), substitute—

“(5) The employer’s standard rate is 13.3%.”

PART 4**Miscellaneous****Option to persons detrimentally affected by these Regulations**

19.—(1) This regulation applies in relation to any benefit which is being paid, or may become payable, under the regulations amended by these Regulations (“the amended regulations”) to or in respect of a person who having served in an employment or office which qualified the person to participate in the benefits provided under the amended regulations, ceased to serve in that office or employment before these Regulations came into operation.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Department within 6 months of the coming into operation of these Regulations or such longer period as the Department may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into operation of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
15th December 2010

(L.S.)

Bernie Stuart

A senior officer of the Department of Health, Social Services and Public Safety

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

Sealed with the Official seal of the Department of Finance and Personnel on 15th December 2010

(L.S.)

Adrian Arbuthnot
A 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 1995 Regulations”), the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 (S.R. 2008 No.256) (“the 2008 Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this rule are to take effect from various dates before the date of commencement. Article 14(1) of the Superannuation (Northern Ireland) Order 1972 provides authority for the regulations specified in regulation 1(3), (4) and (5) to take effect as from a date earlier than the making of these Regulations.

The remainder of the Regulations are divided into three Parts, with Parts 2 and 3 amending the 1995 Regulations and the 2008 Regulations and Part 4 providing that certain persons detrimentally affected by these Regulations may elect for the provisions not to apply to them.

Parts 2 and 3 make similar amendments in respect of both the 1995 Regulations and the 2008 Regulations. They also introduce amendments specific to either the 1995 Regulations or the 2008 Regulations.

The changes dealing with similar issues in Parts 2 and 3 (amending the 1995 and 2008 Regulations)—

- introduce updated pay/earnings bands for the purpose of assessing tiered contribution percentage rates for members and remove the provisions which permit the Department to change the bands and tiered contribution rates by making a determination (regulations 3, 8, 12, 13, 14, 16 and 17)
- specify that the current employer contribution rate is 13.3% (regulations 4, 15, and 18)
- reflect the respective roles of the Department, the Department of Finance and Personnel, the Scheme Actuary and representatives of employees and employing authorities in the setting of assumptions on which actuarial reports of the scheme’s liabilities are based (regulations 6 and 10).

The changes specific to Part 2 (amending the 1995 Regulations) provide for the scheme’s obligations in respect of guaranteed minimum pensions to remain linked to age 60 for women and age 65 for men (regulation 5) and insert a new regulation 97B to provide for interest to be paid in respect of delays in the payment of benefits and refund of contributions (regulation 7).

The changes specific to Part 3 (amending the 2008 Regulations) regroup regulations that deal with the member and employer contributions due in respect of members who are non-GP providers (regulations 11, 14 and 15).

Part 4 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into operation of these Regulations (regulation 19).

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HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation),
Health and Social Care (Pension Scheme) (Amendment)
Regulations (Northern Ireland) 2010