
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 42

The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012

PART 2

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

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(1) are amended as provided by regulations 3 to 11.

Amendment of regulation 2

3. In Regulation 2 (Interpretation), in the definition of “host Health and Social Services Board”(2), for paragraph (b) substitute—

- “(b) in respect of a principal practitioner, who has contracted, or entered into an agreement, to provide GMS or APMS means the Regional Health and Social Care Board on whose medical performers list the practitioner’s name appears;
- (c) in respect of a principal practitioner, who has undertaken to provide General Dental Services (GDS) and whose name is included in a list of dentists prepared by the Agency under regulation 4 of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993 means the Regional Health and Social Care Board;”.

Amendment of regulation 7

4. In regulation 7 (Restrictions on membership)(3), in sub-paragraph (q)(iv) of paragraph (1), after “contributions” insert “under regulation 50”.

Amendment of regulation 17

5.—(1) Regulation 17 (Lump sum on retirement) is amended as provided by paragraphs (2) and (3).

(1) 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, 286 and 420

(2) Definition of “host Health and Social Services Board” inserted by S.R. 2005 No.565, regulation 3(b) and amended by S.R. 2009 No.65 regulation 3(g)

(3) Regulation 7 was substituted by S.R. 2008 No.163 regulation 5, and sub-paragraph (q) was inserted by S.R. 2010 No.286 regulation 4(2)

(2) In paragraph (2)(4), for “the yearly rate of the pension” substitute “that part of the yearly rate of the pension which is attributable to contributions paid under Part II”.

(3) In paragraph (8)(5), for “has attained the age of 75” substitute “attained the age of 75 on or before 5th April 2011”.

Amendment of regulation 19

6. In paragraph (7)(6) of regulation 19 (Member dies after pension becomes payable), after “paragraph (1)”, insert “dies on or before 5th April 2011 and”, and for “has” substitute “had”.

Amendment of regulation 85

7. In regulation 85 (Reduction of pension on return to HSC employment), in sub-paragraph (c) (ii) of paragraph (1A), after “(Nurses, physiotherapists, midwives and health visitors)” insert “or regulation 76(9) (Mental health officers)”.

Amendment of regulation 89A

8.—(1) Regulation 89A(7) (Deduction of tax: further provisions) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (10), for “35 per cent” substitute “55 per cent”.

(3) After paragraph (10), insert—

“(10A) Where—

(a) a lump sum on death is payable in accordance with regulation 19 (Member dies after pension becomes payable); and

(b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death,

the Department shall deduct tax at the rate of 55 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of the 2004 Act.

(10B) Where—

(a) the Department’s liability to pay a pension under regulation 12 (Normal retirement pension) is discharged by the payment of a lump sum in accordance with paragraph (4) of that regulation; and

(b) that lump sum payment is made to a member who has reached the age of 75,

the Department shall deduct tax at the rate of 55 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 205A of the 2004 Act.”.

Amendment of regulation 94

9. For paragraph (3)(b) of regulation 94 (Commutation of trivial pensions)(8), substitute—

“(b) either—

(i) the lump sum rule and lump sum death benefit rule, or

(4) Paragraph (2) was amended by [S.R. 2009 No.188](#) regulation 6(2)

(5) Paragraph (8) was inserted by [S.R. 2006 No.410](#) regulation 9(3)

(6) Paragraph (7) was inserted by [S.R. 2009 No.65](#) regulation 8(3)

(7) Regulation 89A was inserted by [S.R. 2006 No.410](#) regulation 16

(8) Paragraph (3) was substituted by [S.R. 2006 No.410](#) regulation 17(2)

- (ii) the requirements of regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payments by larger pension schemes)(9).”.

Amendment of Schedule 2

10.—(1) Schedule 2 (Medical and dental practitioners) is amended as provided by paragraphs (2) to (4).

(2) In paragraph 10 (Contributions to this Section of the scheme)—

(a) in sub-paragraph (2I)(10)—

(i) for “, which” substitute “on the basis of whichever of the following the host Health and Social Services Board considers the most appropriate in the circumstances”;

(ii) in heads (a) and (b), at the beginning, insert “the amount of the practitioner’s (other than a dentist performer) or non-GP provider’s earnings that”; and

(iii) in head (c)—

(aa) at the beginning, insert “the amount of such earnings that”; and

(bb) after “practitioner’s” insert “(not being a dentist performer)”.

(b) in sub-paragraph (2L)(11)—

(i) for “, which” substitute “on the basis of whichever of the following the host Health and Social Services Board considers the most appropriate in the circumstances”; and

(ii) in heads (a), (b) and (c), at the beginning, insert “the amount of the performers earnings that”.

(3) Paragraph 13 is omitted.

(4) Paragraph 23 (Accounts and actuarial reports)(12), is amended as follows—

(a) in sub-paragraph (2) for “principal medical practitioner” substitute “principal practitioner falling within paragraph (a) of the definition of principal practitioner”;

(b) in sub-paragraph (3) for “assistant medical practitioner” substitute “assistant practitioner falling within paragraph (a) of the definition of assistant practitioner”;

(c) in sub-paragraph (4)—

(i) for “principal dental practitioner” substitute “principal practitioner falling within paragraph (b) of the definition of principal practitioner”; and

(ii) for “Trust or Board” substitute “Health and Social Services Board”;

(d) in sub-paragraph (5)—

(i) for “assistant dental practitioner” substitute “assistant practitioner falling within paragraph (b) of the definition of assistant practitioner”; and

(ii) for “Trust or Board” substitute “Health and Social Services Board”;

(e) for sub-paragraphs (6) to (13), substitute—

“(6) In respect of each scheme year, an employing authority shall provide the Department with a statement of estimated superannuable earnings in respect of any—

(9) [S.I. 2009/1171](#)

(10) Sub-paragraph (2I) was amended by [S.R. 2010 No.420](#) regulation 8(4)

(11) Sub-paragraph (2L) was amended by [S.R. 2010 No.420](#) regulation 8(4)

(12) Paragraph 23 was inserted by [S.R. 2005 No.565](#) regulation 12(9), substituted by [S.R. 2009 No.188](#) regulation 11(4) and amended by [S.R. 2010 No.22](#) regulation 12, Schedule 1, Part 1, paragraph 1(b)

- (a) non-GP provider that is a GMS practice or an APMS contractor who assists in the provision of HSC services provided by that GMS practice or APMS contractor;
 - (b) principal practitioner, falling within paragraph (a) of the definition of principal practitioner, who performs medical services as, or on behalf of, the GMS practice or APMS contractor; or
 - (c) assistant practitioner, falling within paragraph (a) of the definition of assistant practitioner, employed by the GMS practice or APMS contractor.
- (7) In respect of each scheme year, a GMS practice or an APMS contractor shall provide the Department with an end-of-year statement of—
- (a) superannuable earnings,
 - (b) contributions to this Section of the Scheme made under regulation 10 (Contributions by members) and the modifications to that regulation referred to in paragraph 10,
 - (c) contributions to this Section of the Scheme made under regulation 11 (Contributions by employing authorities) and the modifications to that regulation referred to in paragraph 10, and
 - (d) any superannuable earnings deemed in accordance with regulation 65 (Absence because of illness or injury or certain types of leave) and the modifications to that regulation referred to in paragraph 19,
- in respect of assistant practitioners, falling within paragraph (a) of the definition of assistant practitioner, employed by the GMS practice or APMS contractor.
- (8) The Department shall be provided with—
- (a) the statement referred to in sub-paragraph (6) at least 1 month before the beginning of that scheme year;
 - (b) the statement referred to in sub-paragraph (7) no later than 3 months after the end of that scheme year.
- (9) A host Health and Social Services Board shall, for each scheme year and no later than 13 months after the end of each scheme year, forward to the Department a copy of the records the host Health and Social Services Board maintains in respect of—
- (a) all contributions to this Section of the Scheme made under paragraph 10 in respect of principal practitioners falling within paragraph (a) of the definition of principal practitioner, and non-GP providers, and
 - (b) their superannuable earnings.
- (10) Subject to sub-paragraphs (11) and (12), if, in respect of a scheme year, a practitioner or non-GP provider has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to that member, the member's superannuable earnings for that scheme year shall be zero.
- (11) If, in respect of a scheme year, the employing authority of a practitioner or non-GP provider member is in possession of a figure representing all or part of that member's superannuable earnings for that year, the Department may treat that figure as the amount of that member's superannuable earnings for that year where—
- (a) the member has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to them; and
 - (b) a benefit in respect of that member's service as a practitioner or non-GP provider is payable to, or in respect of them, under these Regulations.

- (12) If, in respect of a scheme year, a practitioner or non-GP provider—
- (a) dies without complying with the requirements of whichever of sub-paragraphs (2) to (5) applies to them; or
 - (b) is, in the opinion of the Department, unable to look after their own affairs by reason of illness or lack of capacity,

the Department may require that practitioner or non-GP provider's personal representatives or person (or persons) duly authorised to act on the member's behalf to provide the relevant certificate or statement within the period specified in sub-paragraph (13).

- (13) The period is—
- (a) that referred to in whichever of sub-paragraphs (2) to (5) was or is applicable to them, or
 - (b) such other period as the Department permits.
- (14) The certificates and statements referred to in this paragraph—
- (a) shall be in such form as the Department shall from time to time require;
 - (b) may be provided to the Department in such manner as the Department may from time to time permit.

(15) A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment or disturbance in the functioning of his mind or brain.”.

Amendment of Schedule 2A

11. In paragraph 7 of Schedule 2A (Pension sharing on divorce or nullity of marriage)(**13**), in sub-paragraph (5), after “sub-paragraph (1)”, insert “dies on or before 5th April 2011 and”, and for “has” substitute “had”.