
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 3

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

12. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(1) are amended as provided by regulations 13 to 30.

Amendment of regulation 10

13.—(1) Regulation 10 paragraph (1) (Meaning of “qualifying service”), is amended as provided by paragraphs (2) and (3)

(2) At the end of sub-paragraph (f)(2) omit “and”.

(3) After sub-paragraph (g) insert—

“(h) in the case of a Waiting Period Joiner referred to in regulation 136Y(3), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and

(i) in the case of a person who is eligible to join this Section of the scheme by virtue of regulation 21(5)(e), (g) or (h) (Eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

Amendment of regulation 27

14. In paragraph (8) of regulation 27(4) (Contributions by members), for “(3)” substitute “(3A)”.

Amendment of regulation 59

15. In paragraphs (4)(5) and (5)(6) of regulation 59 (Option for members in serious ill-health to exchange whole pension for lump sum), the words “and before reaching the age of 75” are omitted.

(1) S.R. 2008 No.256 as amended by S.R. 2009 Nos. 65 and 188; S.R. 2010 Nos. 22, 286 and 420
(2) Sub-paragraph (f) was inserted by S.R. 2009 No.65 regulation 27(3)
(3) Chapter 11 was inserted by S.R. 2010 No.286 regulation 34
(4) Regulation 27 was substituted by S.R. 2010 No.420 regulation 11
(5) Paragraph (4) was amended by S.R. 2009 No.188 regulation 31(3)
(6) Paragraph (5) was substituted by S.R. 2009 No.188 regulation 31(4)

Amendment of regulation 75

16. In paragraph (1)(c)(i) of regulation 75 (Meaning of “dependent child”) for “whilst the deceased was an active member” substitute “before the deceased ceased to be an active member”.

Amendment of regulation 86A

17. In paragraph (1) of regulation 86A(7) (Pension payable when member dies on or after reaching age 75), after “If” insert “, on or before 5th April 2011,”.

Amendment of regulation 120

18. In paragraph (2) of regulation 120 (Meaning of “previous pay”: members with concurrent employments), for “118” substitute “119(4)”.

Amendment of regulation 128

19.—(1) Paragraph (2)(8) of regulation 128 (Commutation of small pensions) is amended as provided by paragraphs (2) and (3).

(2) The “and” at the end of sub-paragraph (e) is omitted.

(3) After sub-paragraph (f) add—

“; and

(g) Regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payment by larger pension schemes).”.

Amendment of regulation 131

20. At the end of regulation 131 (Deduction of tax)(9), add—

“(5) Paragraph (6) applies if—

(a) a lump sum death benefit is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 83 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 49 employments)); 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.

(6) Without prejudice to the generality of paragraph (1), when the lump sum is paid, the Department may deduct the tax payable under section 206 of the Finance Act 2004 (special lump sum benefits charge).

(7) Paragraph (8) applies if—

(a) an active, non-contributing or pension credit member opts to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of regulation 59 (Option for members in serious ill-health to exchange whole pension for lump sum); and

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

(8) Without prejudice to the generality of paragraph (1), when the lump sum is paid, the Department may deduct the tax payable under section 205A of the Finance Act 2004 (serious ill-health lump sum charge).”.

(7) Regulation 86A was inserted by [S.R. 2009 No.65](#) regulation 36

(8) In paragraph (2), sub-paragraph (d) was revoked by [S.R. 2009 No.188](#) regulation 47

(9) Regulation 131 was amended by [S.R. 2010 No.22](#) by Schedule 2, Part 1, paragraph 1

Amendment of regulation 141

21.—(1) Paragraph (1) of regulation 141 (Meaning of “qualifying service”), is amended as provided by paragraphs (2) and (3).

(2) At the end of sub-paragraph (e), omit “and”.

(3) After sub-paragraph (f)(10) add—

“(g) in the case of a Waiting Period Joiner referred to in regulation 260X(11), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and

(h) in the case of a person who is eligible to join this section of the Scheme by virtue of regulation 153(5)(e), (g) or (h) (Eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

Omission of regulation 148

22. Regulation 148 (Distribution of pensionable earnings between principal dental practitioners employed or engaged by the same GDS provider)(12) is omitted.

Amendment of regulation 160

23. In paragraph (3) of regulation 160 (Contributions by members)(13), for “(3)” substitute “(3A)”.

Amendment of regulation 161

24.—(1) Regulation 161 (Members’ contribution rate)(14) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (6)—

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

(b) in sub-paragraphs (a), (b) and (c), at the beginning, insert “the amount of the practitioner’s (other than a dentist performer) earnings that”.

(3) In paragraph (9)—

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

(b) in sub-paragraphs (a), (b) and (c), at the beginning, insert “the amount of the dentist performer’s earnings that”.

Amendment of regulation 186

25. In regulation 186 (Option for members in serious ill-health to exchange whole pension for lump sum), in paragraphs (4)(15) and (5)(16), the words “and before reaching the age of 75” are omitted.

(10) Sub-paragraph (f) was inserted by [S.R. 2010 No.22](#) regulation 58

(11) Chapter 11 was inserted by [S.R. 2010 No.286](#) regulation 51

(12) Regulation 148 was amended by [S.R. 2010 No.286](#) regulation 36

(13) Regulation 160 was amended by [S.R. 2010 No.420](#) regulation 16

(14) Paragraphs (6) and (9) were amended by [S.R. 2010 No.420](#) regulation 17(3)

(15) Paragraph (4) was amended by [S.R. 2009 No.188](#) regulation 60(3)

(16) Paragraph (5) was substituted by [S.R. 2009 No.188](#) regulation 60(4)

Amendment of regulation 202

26. In paragraph (1)(c)(i) of regulation 202 (Meaning of “dependent child”) for “whilst the deceased was an active member” substitute “before the deceased ceased to be an active member”.

Amendment of regulation 213A

27. In paragraph (1) of regulation 213A (Pension payable when member dies on or after reaching age 75)(17), after “If” insert “, on or before 5th April 2011,”.

Amendment of regulation 252

28.—(1) Paragraph (2)(18) of regulation 252 (Commutation of small pensions) is amended as provided by paragraphs (2) and (3).

(2) The “and” at the end of sub-paragraph (e) is omitted.

(3) After sub-paragraph (f) add—

“; and

(g) Regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payment by larger pension schemes).”.

Amendment of regulation 255

29. At the end of regulation 255 (Deduction of tax)(19), add—

“(5) Paragraph (6) applies if—

(a) a lump sum death benefit is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 210 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 180 employments)); 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.

(6) Without prejudice to the generality of paragraph (1), when the lump sum is paid, the Department may deduct the tax payable under section 206 of the Finance Act 2004 (special lump sum death benefits charge).

(7) Paragraph (8) applies if—

(a) an active, non-contributing or pension credit member opts to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of regulation 186 (Option for member in serious ill-health to exchange whole pension for lump sum); and

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

(8) Without prejudice to the generality of paragraph (1), when the lump sum is paid, the Department may deduct the tax payable under section 205A of the Finance Act 2004 (serious ill-health lump sum charge).”.

(17) Regulation 213A was inserted by [S.R. 2009 No.65](#) regulation 67

(18) In paragraph (2), sub-paragraph (d) was revoked by [S.R. 2009 No.188](#) regulation 76

(19) Regulation 255 was amended by [S.R. 2010 No.22](#) Schedule 2, Part 1, paragraph 1

Amendment of regulation 260

30.—(1) Regulation 260 (Employing authority and certain member record keeping and contribution estimates)(20) is amended as provided by paragraphs (2) and (3).

(2) In paragraphs (3) and (4) in each place for “superannuable” substitute “pensionable”.

(3) For paragraphs (5) to (15) substitute—

“(5) In respect of each scheme year, a GMS practice or an APMS contractor shall provide the Department with a statement of estimated pensionable earnings in respect of any—

- (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 medical practitioner who performs medical services as, or on behalf of, the practice or contractor;
- (c) assistant medical practitioner employed by the practice or contractor.

(6) In respect of each scheme year, each employing authority shall, in respect of any of the person’s referred to in paragraph (5)(a) to (c), provide the Department with an end-of-year statement of—

- (a) pensionable earnings;
- (b) contributions to this Section of the Scheme made under regulation 161 (Members’ contribution rate);
- (c) contributions to this Section of the Scheme made under regulation 162 (Contributions by employing authorities: general); and
- (d) any pensionable earnings deemed in accordance with regulation 144 (Pensionable earnings-breaks in service),

in respect of any of the persons referred to in paragraph (5)(a) to (c).

(7) The Department shall be provided with—

- (a) the statement referred to in paragraph (5) at least 1 month before the beginning of that scheme year;
- (b) the statement referred to in paragraph (6) no later than 3 months after the end of that scheme year.

(8) All employing authorities must, for each scheme year—

- (a) provide the Department with a statement of estimated total contributions due to this Section of the Scheme under regulation 160 (Contributions by members) and 162 (Contributions by employing authorities: general); and
- (b) maintain, in a manner approved by Department from time to time, the records of contributions to this Section of the Scheme made under regulations 160 and 161.

(9) The statement referred to in paragraph (8)(a) must be provided to the Department no later than 2 months after the end of each scheme year and, except where the Department waives such requirement, an employing authority must provide the Department with a statement of contributions to this Section of the Scheme recorded in accordance with paragraph (8)(b) no later than 2 months after the end of each scheme year.

(10) Subject to paragraphs (11) and (12), if, in respect of a scheme year, a member has failed to comply with the requirements of whichever of paragraphs (1) to (4) applies to that member, the member’s pensionable earnings for that scheme year shall be zero.

(20) Regulation 260 was substituted by S.R. 2009 No.188 regulation 78 and amended by S.R. 2010 No.22 regulations 13, 105, Schedule 2, Part 1, paragraph 1

(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 pensionable earnings for that year, the Department may treat that figure as the amount of that member's pensionable earnings for that year where—

- (a) that member has failed to comply with the requirements of whichever of paragraphs (1) to (4), applies to them; and
- (b) a benefit in respect of such services is payable to, or in respect of that member, 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 paragraphs (1) to (4) 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 person's) duly authorised to act on the member's behalf to provide the relevant certificate or statement within the period specified in paragraph (13).

(13) The period is—

- (a) that referred to in whichever of paragraphs (1) to (4) was or is applicable to them
- (b) such other period as the Department permits.

(14) A host 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 that the host Board maintains in respect of practitioners under regulation 164(17)(b) (Payment of contributions).

(15) The certificates and statements referred to in this regulation—

- (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.

(16) 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".