

EXPLANATORY MEMORANDUM TO

The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015

S.R. 2015 No.120

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety (DHSSPS) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1 and 3 of the Public Service Pensions Act (Northern Ireland) 2014 and is subject to the negative resolution procedure.

2. Purpose

This rule establishes a scheme for the payment of pensions and other benefits to, or in respect of, health service workers in Northern Ireland

3. Legislative Context

- 3.1. This rule forms part of a group of three linked rules that together implement reforms to pension scheme arrangements for health and social care workers in Northern Ireland. The other two linked rules are:
 - (a) The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015 No.122) which implement a series of transitional and consequential arrangements for the treatment of pension benefits built up under the old scheme where a person joins the new scheme on or after 1 April 2015. Such arrangements also include protections permitting members close to normal pension age to remain in the old scheme, and
 - (b) The Health and Personal Social Services (Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015 No.121) which implements reforms and makes technical clarifications to the old scheme including new contribution rates.
- 3.2. This rule implements a reformed pension scheme for health and social care workers in Northern Ireland under the powers provided in the Public Service Pensions Act (Northern Ireland) 2014 (the Act).
- 3.3. The Act was enacted in response to the recommendations of the Independent Public Service Pensions Commission (the Commission) chaired by Lord Hutton of Furness. The Commission published its final report on 10 March 2011. This recommended a series of changes to public service pension arrangements in order to secure long term sustainability of

the pension schemes together with a more balanced distribution of costs between scheme members and, via the employer, the taxpayer.

- 3.4. The Act paved the way for the delivery of these reforms and establishment of new pension schemes for persons in public service. This rule establishes the reformed scheme for health and social care workers in Northern Ireland. The reforms include, as required by the Act, a pension calculated by reference to a member's career average earnings, a normal pension age equal to the state pension age and provisions relating to governance of the scheme.

4. Policy Background

- 4.1. The cost of paying public service pensions has increased by a third in the last ten years. This increase in the burden on taxpayers, together with concerns about the fairness and sustainability of these pensions, led to the UK Government setting up the Commission. This was tasked with undertaking an independent review of public service pensions and to then make recommendations about how such pensions should be reformed so as to be sustainable and affordable in the long term as well as continuing to be fair to employees.
- 4.2. Following the publication of the final report of the Commission, the UK Government accepted its recommendations as the basis for discussion with public service workers, trades unions and other member representative bodies. In November 2011, following those discussions, the Treasury set out the Government's preferred pension scheme design as the framework to inform further discussions. This led to the publication of scheme-specific designs for each of the new schemes.
- 4.3. A proposed final agreement (PFA) was developed through discussion between Department of Health England, NHS trade union and employer representatives detailing the key provisions of the reformed scheme for health service workers in England & Wales. These include: a defined benefit pension that would be based on the member's career average salary; an accrual rate (the amount of pension built up each year) of 1/54th of pensionable earnings, with previous pension accrual to be increased in line with prices plus 1.5% where the member continues in membership of the scheme (if membership ceases it increases in line with prices only); a Normal Pension Age equal to the member's State Pension Age, but with options for retirement earlier or later than this age.
- 4.4. At its meeting on 8 March 2012 the NI Executive agreed:-
 - i. to commit to the policy for a new career average revalued earnings (CARE) scheme model with pension age linked to State Pension Age to be adopted for general use in the public service schemes; and
 - ii. to adopt this approach consistently for each of the different public sector pension schemes in line with their equivalent schemes in Great Britain and not to adopt different approaches for Northern Ireland.

- 4.5. The Public Service Pensions Act (Northern Ireland) 2014 provides the wider legal framework for reforms to the Health and Social Care Pension Scheme. The Department has powers under this Act to make regulations that provide a new pension scheme (“the 2015 scheme”) for HSC staff
- 4.6. This rule creates the reformed pension scheme for health and social care workers in Northern Ireland, giving effect to the position set out in the PFA for the NHS Scheme in England & Wales and in line with the recommendations of the Commission.
- 4.7. **Part 2** of the rule sets out the governance and cost control arrangements for the scheme while **Parts 3 and 4** describe eligibility for membership and establishes requirements relating to member and employer contributions. **Part 5** makes provision for retirement benefits, including pensions that are payable upon premature or ill-health retirement and the circumstances in which such pensions are reduced upon return to health service employment (abatment). **Part 6** covers benefits payable upon the death of a member. **Part 7** makes arrangements for making and receiving transfer payments to and from other pension schemes. **Part 8** establishes criteria for certain types of employers and qualifying employees to participate in the scheme.
- 4.8. Of specific interest may be Schedule 7 which provides for the operation of the career average scheme. This provides for each member to build up a pension each year calculated as 1/54th of their pensionable earnings. This pension is held in a pension account and indexation applied at the start of each scheme year (1 April).
- 4.9. Indexation is only applied to the account of active members (that is those members who are participating in the scheme and paying contributions). Deferred (members who were an active member but have since stopped participating in the scheme without applying for benefits) and pensioner (members who have drawn their pension) members’ pensions are increased each year under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971. The rate of indexation for active members will be equal to the change in prices as provided for in an order made by the Department of Finance and Personnel (DFP) Treasury, plus 1.5%.
- 4.10. In line with section 10 of the Public Service Pensions Act (Northern Ireland) 2014, the normal pension age of the scheme (the age at which a member is entitled to draw their pension without any reduction for early payment) is equal to the member’s state pension age.

Consolidation

- 4.11. These are the first Health and Social Care Pension Scheme Regulations brought forward under the powers provided by the Public Service Pensions Act (Northern Ireland) 2014. There is no requirement to consolidate these regulations.

5. Consultation Outcome

- 5.1. The Department consulted on the rule from 23 December 2014 to 6 February 2015. The Department held extensive discussions with trades unions through which the detailed elements of the new scheme and transitional and consequential arrangements were discussed.

Five responses to consultation were received. A number of technical points and observations were made that assisted refinement of the regulations. Comments were in particular received on the policies relating to the structure of member contribution rates, the purchase of early retirement reduction buy-out and protection status. The Department has published a document summarising and replying to the responses received. A copy can be found at www.dhsspsni.gov.uk/index/consultations/current_consultations.htm

6. Equality Impact

6.1. The Department concluded that the new arrangements were not likely to have a significant impact on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998 and therefore a full EQIA was not recommended.

7. Regulatory Impact

7.1. A regulatory impact assessment has not been produced for this rule as it has no impact on the costs of business, charities or the voluntary sector.

8. Financial Implications

8.1. None.

9. Section 24 of the Northern Ireland Act 1998

9.1. Legal advice confirms that the provisions of this rule comply with section 24 of the Northern Ireland Act 1998.

10. EU Implications

10.1. Not appropriate

11. Parity or Replicatory Measure

11.1. The amendments proposed mirror provisions introduced in England, Wales and Scotland.

12. Additional Information

12.1. Not applicable.