

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2015 No. 121**

**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**

**PART 5**

**Amendment of the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999**

**Amendment of Schedule 2**

**59.**—(1) Schedule 2 (Pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership)(1) is amended as provided by paragraphs (2) to (6).

(2) In paragraph 1 (Discharge of liability in respect of pension credit)—

(a) for paragraph (b) of sub-paragraph (5), substitute—

“(b) any dependant’s pension which is payable under it is payable only on the death of the pension credit member after that member has reached normal benefit age and is payable to the dependant for life: this is subject to paragraph (6).”;

(b) after sub-paragraph (5), add—

“(6) In the case of a person who is a child to whom—

- (a) regulations 32 to 38 of the 1995 Regulations (Child allowance) applies;
- (b) regulation 75 or 202 of the 2008 Regulations applies (Meaning of dependant child), or
- (c) regulation 121 of the 2015 Regulations (Eligible child) applies,  
a pension referred to in paragraph (5)(b) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(7) Sub-paragraph (5) does not apply where, in accordance with sub-paragraph (5C) of paragraph 4, a pension credit member elects to be provided with alternative benefits referred to in sub-paragraph (5B) of that paragraph.”.

(3) In paragraph 4 (pension credit benefit)—

- (a) in sub-paragraph (4), for “this paragraph” substitute “sub-paragraph (1) and any alternative benefit referred to in sub-paragraph (5A)”;
- (b) after sub-paragraph (5), insert—

---

(1) Schedule 2 was inserted by [S.R. 2004 No.104](#), regulation 6 and amended by [S.R. 2005 No.533](#), regulation 5(4); [S.R. 2006 No.410](#), regulation 34; [S.R. 2008 No.350](#), regulation 2(15) and [S.R. 2010 No.286](#), regulation 55(6)

“(5A) An authorised provider selected by the Department must—

- (a) must provide a pension credit member with an option to receive the benefits referred to in sub-paragraph (5)(a), (aa) and (b); and
- (b) may, as from 6th April 2015, provide such a member with an option to receive the alternative benefits referred to in sub-paragraph (5B).

(5B) Those alternative benefits are benefits that are equivalent in value to the benefits referred to in sub-paragraph (5)(a), (aa) and (b) and which comply with the requirements of the 2014 Act.

(5C) A member who wishes to be provided with such alternative benefits must elect to do so by giving the Department notice in writing not earlier than 3 months before attaining normal benefit age.”;

(c) in sub-paragraph (7)—

- (i) after “sub-paragraph (5)” insert “, or as the case may be, sub-paragraph (5C)”;
- (ii) after paragraph (b) insert—

“(c) where sub-paragraph (5C) applies, pay the alternative benefits the pension credit member has elected to be provided with.”;

(d) for sub-paragraphs (8) and (9), substitute—

“(8) Where the conditions in sub-paragraph (9) are satisfied, the Department may realise the investments made under paragraph 2 and apply the proceeds to the purchase of benefits under these Regulations from an insurer that the Department considers—

- (a) suitable;
- (b) will satisfy the requirements of regulations 12 to 14 of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(2)</sup>;
- (c) will comply with the requirements of the 2014 Act, and
- (d) will fully discharge its liability for payment of benefits under these Regulations.

(9) Those conditions are that the pension credit member has—

- (a) attained normal benefit age on, or after, 1st May 2001; and
- (b) attained the age of 75 and not given notice of an election under sub-paragraph (5) before doing so.

(10) Paragraph (8) applies notwithstanding that the benefits are payable to a pension credit member by virtue of that member being a member of the HPSS Superannuation Scheme under—

- (a) Part III or regulation 49 of the 1995 Regulations (benefits for members and preserved pension);
- (b) regulation 45, 48, 49, 52, 54, 55, 176, 179, 180, 182, or 184 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
- (c) regulation 72, 78, 80, 81, 83, 89 or 93 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”.

(4) For paragraph (b)<sup>(3)</sup> of sub-paragraph (2) of paragraph 7 (Commutation of the whole of pension credit at normal benefit age), substitute—

---

(2) S.I. 2000/1054

(3) Paragraph (b) of sub-paragraph (2) was last substituted by S.R. 2008 No.350, regulation 2(15)(c)

“(b) the total benefits payable meet the requirements of regulation 12 of the 2009 Regulations.”.

(5) For paragraph 13 (Offset for crime, negligence or fraud) substitute—

**“Offset for crime, negligence or fraud**

**13.**—(1) This paragraph applies in relation to pension credit benefit which arises by virtue of pension credit rights which are derived from an employer’s contributions paid on or after the date on which the AVC Regulations came into operation in respect of the relevant participator.

(2) Where paragraph (3) applies, the Department may reduce the amount of any pension credit benefit payable to or in respect of a pension credit member under this Schedule to the extent set out, and subject to the conditions specified, in whichever of the provisions referred to in that paragraph applies.

(3) This paragraph applies where on or after the date these Regulations come into operation—

(a) in respect of a relevant pension credit member the circumstances set out in whichever of the following provisions applies have occurred—

- (i) regulation 92 of the 1995 Regulations (Offset for crime, negligence or fraud);
- (ii) regulation 129 or 253 of the 2008 Regulations (Reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
- (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (Offset of benefits), and

(b) there has been a loss to public funds.

(4) In this paragraph—

“relevant pension credit member” means a pension credit member who is also a member of the HPSS Superannuation Scheme;

“relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.

(6) For paragraph 14 (Loss of rights to benefits), substitute—

**“Loss of rights to benefits**

**14.**—(1) Where paragraph (2) applies, the Department may direct that all or any part of any rights to pension credit benefit a pension credit member has under this Schedule and which arise by virtue of an employer’s contributions paid on or after the date on which the AVC Regulations come into operation in respect of a relevant participator, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into operation—

(a) that pension credit member commits and is convicted of an offence referred to in—

- (i) regulation 93 of the 1995 Regulations (Loss of rights to benefits);
- (ii) regulation 130 or 254 of the 2008 Regulations (Forfeiture of rights to benefits),  
or
- (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (Forfeiture of rights to benefits), and

(b) the circumstances are such that a direction may be made by the Department under whichever of those provisions applies.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

(3) In this paragraph “relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.