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 ("the Superannuation Scheme Regulations"), which make provision for the superannuation of HPSS employees and the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999, ("the AVC Regulations") which make provision to enable members of the Superannuation Scheme, or their employers to pay additional voluntary contributions to secure additional pension benefits by the investment of those contributions. An amendment is also made to the Health and Personal (Injury Benefits) Regulations (Northern Ireland) 2001, ("the Injury Benefits Regulations") which provide for the payment of injury benefits to employees of the Health and Personal Services who are injured, or contract a disease in the course of their employment.

The Regulations shall have retrospective effect as authorised by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

Regulations 1 and 2 provide for the citation, commencement, retrospective effect and interpretation of the Regulations.

Amendment of the Superannuation Scheme Regulations 1995

Regulation 3 amends regulation 2 (interpretation) by inserting various definitions which are needed to give effect to the provisions of the Finance Act 2004 (c.12).

Regulation 4 amends regulation 9A (Opting into the Scheme: Mis-sold pensions) by amending the definition of "personal pension scheme" to take account of the change in status of such schemes to "registered schemes" for the purposes of the Finance Act 2004.

Regulation 5 amends regulation 13 (Early retirement pension (ill health)) so that any lump sum payment is consistent with the provisions of the Pension Schemes (Northern Ireland) Act 1993 (c.49) relating to contracting-out and preservation of benefits and the new lump sum rule from the Finance Act 2004. It also amends that regulation so as to provide for the calculation of such a lump sum.

Regulation 6 amends regulation 14 (Early retirement pension (redundancy etc.)) so as to refer to those who have the normal minimum retirement age of 55 or, where provided for under the Finance Act 2004, a lower protected pension age.

Regulations 7 and 8 amend regulations 15 (Early retirement pension (employer's consent)) and 16 (Early retirement pension (with actuarial reduction)) in the same way as regulation 6 amends regulation 14.

Regulation 9 amends regulation 17 (Lump sum on retirement) so as to provide that where a member of the scheme has attained the age of 75, he shall no longer be entitled to a lump sum but shall instead have his pension increased in lieu of that lump sum.

Regulation 10 amends regulation 19 (Member dies after pension becomes payable) to provide that a member of the scheme may notify the Department that he wants a lump sum payable under the regulation to be treated as a pension protection lump sum death benefit in accordance with the provisions of the Finance Act 2004.

Regulation 11 amends regulation 32 (Dependent child) so that it refers to a child aged 17 or over but who has not reached the age of 23. It also makes transitional provision for children who may become entitled to a child allowance before 6th April 2006 or whose dependency is to be assessed in relation to a person who became entitled to a pension on or before that date.

Regulation 12 amends regulation 39 (Allocation of pension) so as to provide that a member who wishes to allocate part of his pension to another person must do so before the date on which that pension becomes payable to him.

Regulation 13 amends regulation 49 (Preserved pension) so as to refer to a normal minimum pension age or, where the Finance Act 2004 provides, a protected pension age.

Regulation 14 amends regulation 50 (Refund of contributions) so as to provide that a member who becomes entitled to a refund of his contributions shall receive a lump sum less tax at 20 per cent on such part of the sum which does not exceed £10,800 and at 40 per cent on such part of that sum which exceeds that limit.

Regulation 15 amends regulation 60 (Member's right to transfer accrued rights to benefits to the scheme) so as to provide that a member may, within 12 months of joining the scheme, request the Department to accept a transfer payment in respect of his rights under certain other schemes except rights under a free-standing AVC scheme which was established on, or after 6th April 2006 or which existed prior to that date and became a free-standing AVC scheme for the purpose of the Finance Act 2004 on that date.

Regulation 16 inserts a new regulation 89A (Deduction of tax: further provisions) after regulation 89. Regulation 89A provides, amongst other things, for any lifetime charge under the Finance Act 2004 to be paid by the Department, for a person entitled to a benefit under the Regulations to be able to waive part of it and for such a person to notify the Department of certain matters if he wishes to rely on protections provided by the Finance Act 2004 (i.e. enhanced lifetime allowance protection).

Regulation 17 amends regulation 94 (Commutation of trivial pension) so as to provide that any commutation must be consistent not only with the contracting-out and preservation requirements of the Pension Schemes (Northern Ireland) Act 1993 but also the lump sum and lump sum death benefits rules provided for in the Finance Act 2004.

Regulation 18 amends Schedule 2A (Pension Sharing on Divorce or Nullity of Marriage) so as to provide that any pension credit benefit which is to be commuted has to satisfy the requirements of the Finance Act 2004 in respect of trivial commutation of lump sums.

Amendment of the Injury Benefits Regulations 2001

Regulation 19 amends regulation 2 (Interpretation) and inserts a new sub-paragraph (g) in the definition of "employing authority" to preserve the right of a person to claim injury benefits in respect of an injury or disease he has already suffered notwithstanding the subsequent omission of his employer from the definition in the Regulations.

Amendment of the Additional Voluntary Contributions Regulations 1999

Regulation 20 amends regulation 2 (Interpretation) of the AVC Regulations by inserting certain definitions to give effect to the provisions of the Finance Act 2004 (e.g. "lifetime allowance").

Regulation 21 amends regulation 3 (Making and acceptance of elections) so as to provide that an AVC scheme may provide either for an annuity or for both a pension commencement lump sum and an annuity on retirement.

Regulation 22 amends regulation 4 (Payment and amount of additional voluntary contributions) so as to enable a person to make contributions to an AVC scheme which do not exceed 100 per cent of his salary (subject to certain exceptions).

Regulation 23 amends regulation 6 (Circumstances in which elections cease to have effect) so as to refer to the correct sections of the Finance Act 2004.

Regulation 24 amends regulation 8 (Inward transfers) to provide that a person who has paid contributions to a registered AVC scheme for the purposes of the Finance Act 2004 can give notice to the Department saying that he wishes the Department to accept a transfer from that scheme.

Regulation 25 amends regulation 10 (Outward transfers) so that it correctly refers to the Finance Act 2004.

Regulation 26 amends regulation 11 (Retirement and dependent's pensions) so as to reflect the fact that investments made under a scheme may be realised so as to provide not just an annuity but also a pension commencement lump sum and an annuity on retirement.

Regulation 27 amends regulation 12 (Lump sums on death) to provide that a lump sum payable on death cannot exceed the limits set down in the Finance Act 2004.

Regulation 28 amends regulation 13 (Benefit limits) to make it clear that any benefits paid under the Regulations are limited by reference to the person's lifetime allowance under the Finance Act 2004.

Regulation 29 amends regulation 14 (Repayment of investments in certain cases) to correctly refer to the provisions of the Finance Act 2004.

Regulation 30 amends regulation 15 (Payments by the Department) to reflect the fact that AVC investments may be realised and used to purchase either an annuity or a pension commencement lump sum or lump sum death benefit.

Regulation 31 amends regulation 16 (Information) to impose an obligation on a person who wishes to take advantage of an entitlement to an enhanced lifetime allowance in accordance with the Finance Act 2004 to provide the AVC provider with certain information.

Regulation 32 inserts a new regulation 22 (Tax) making it clear that benefits payable under the Regulations are paid net of tax due under the Finance Act 2004.

Regulation 33 revokes Schedule 1 to reflect the fact that the benefits limits are now subject to the Finance Act 2004 (see new regulation 13 (Benefit limits) inserted in the Additional Voluntary Contributions Regulations).

Regulation 34 amends Schedule 2 (Pension Sharing on Divorce or Nullity of Marriage) to reflect the fact that an AVC investment may be realised so as to provide a pension commencement lump sum, and to allow for a percentage of the proceeds of any investment specified in a notice of election to be used in that manner.