

2008 No. 163

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Amendment) Regulations (Northern Ireland) 2008**

Made - - - - - *8th April 2008*

Coming into operation *9th April 2008*

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by Articles 12, and 14(1), and (3A) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) with the consent of the Department of Finance and Personnel.

In accordance with Article 12(4) of that Order the Department has consulted with such representatives of persons likely to be affected by these Regulations as appear to the Department to be appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 2008, and shall come into operation on 9th April 2008, and shall have effect from 1st April 2008, except for regulation 64(2) and (3), which shall have effect from 1st April 2003.

(2) The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(b) are amended as provided by regulations (2) to (64).

Amendment of regulation 2

2.—(1) In regulation 2 (Interpretation) insert the following definitions in the appropriate place in alphabetical order—

““scheme year” means a period of one year beginning with 1st April and ending with 31st March next following;

“section 5(2B) rights” has the same meaning as it has in the Pension Schemes (Northern Ireland) Act 1993(c);

“tax year” means any year beginning on 6th April and ending on 5th April the following year;

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the 2004 Act” means the Finance Act 2004.”.

(2) For the definition of “scheme” substitute—

(a) S.I. 1972 No. 1073 (N.I. 10) as amended by S.I. 1990 No. 1509 (N.I. 13)
(b) S.R. 1995 No. 95 as amended by S.Rs. 1997 No. 217 and 390, S.R. 1998 No. 299, S.R. 1999 No. 293, S.R. 2002 No. 69, and S.Rs. 2004 Nos. 103 and 104, and S.Rs. 2005 Nos. 155, 533, 534 and 565, S.Rs. 2006 Nos. 159 and 410, and S.Rs. 2008 Nos. 96 and 130
(c) 1993 c. 49

““scheme” means the Health and Social Care Superannuation Scheme, the rules of which are set out in these regulations”;

(3) For the definition of “superannuable employment” substitute—

““superannuable employment” means HSC employment in respect of which the member contributes to the scheme”.

(4) After regulation 2 insert—

“(2A) For the words “HPSS employment” in every place where they occur substitute “HSC employment””.

Amendment of regulation 3

3.—(1) Regulation 3 (Meaning of “superannuable pay”) is amended as provided by paragraphs (2) to (6).

(2) After paragraph (1) insert—

“(1A) Paragraphs (2) to (4) and (5) to (7) apply in respect of superannuable employment before 1st April 2008.”.

(3) After paragraph (4) insert—

“(4A) Paragraphs (4B) to (7) apply in respect of superannuable employment on, or after, 1st April 2008.

(4B) Subject to paragraph (4C), superannuable pay in excess of the permitted maximum will not be ignored.

(4C) Superannuable pay in excess of the permitted maximum will be ignored in respect of additional service being bought under regulation 67 and an unreduced lump sum being bought under regulation 68 if—

- (a) the member elected to make such a purchase under regulation 72(3) from a birthday falling before 1st April 2008; and
- (b) the member’s superannuable pay was restricted under paragraph (2) before that date; or
- (c) the member’s superannuable pay would have been restricted under that paragraph if it had exceeded the permitted maximum.”.

(4) In paragraph (6), for “In these” substitute “Subject to paragraph (6A), in these”.

(5) After paragraph (6) insert—

“(6A) If the superannuable pay of a member credited with any period of superannuable service under regulation 61 (Transfers made under the Public Sector Transfer Arrangements) or regulation 63 (Special terms for transfers in (bulk transfers etc)) has exceeded the permitted maximum and either—

- (a) paragraph 20 of Schedule 6 to the Finance Act 1989^(a) applied to the member without the modification made by regulation 5 of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990^(b) in respect of benefits derived from all or part of that service under another scheme; or
- (b) any equivalent scheme provision applied to the member in respect of all or part of that service when that person was a member of the scheme from which the transfer was accepted,

that excess shall be ignored for the purposes of calculating the final year’s superannuable pay under paragraph (6) in respect of the corresponding period of superannuable service credited under regulation 61 or 63.”.

(6) For paragraph (7) substitute—

“(7) In this regulation, “permitted maximum” means—

(a) 1989 c. 26
(b) S.I. 1990/2101

(a) in relation to any tax year before the tax year 2006-07, the figure specified for that tax year in an order made under section 590C of the Income and Corporation Taxes Act 1988; or

(b) subject to paragraphs (8) and (9), the figure for any later year is £108,600.

(8) If the retail prices index for the month of September preceding the tax year 2007-08 or any later tax year is higher than it was for the previous September, the figure for that year shall be an amount arrived at by—

(a) increasing the figure for the previous tax year by the same percentage as the percentage increase in the retail prices index; and

(b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.

(9) If the retail prices index for the month of September preceding the tax year 2007-08 or the month of September preceding any later tax year is not higher than it was for the previous September, the figure for that year shall be the same as for the previous tax year.”.

Amendment of regulation 4

4.—(1) Regulation 4 (Meaning of “superannuable service”) is amended as provided by paragraphs (2) and (3).

(2) After paragraph (2)(d) add—

“(e) in the case of a member who is not a special class officer, any period of superannuable service in excess of 40 years that relates to a period before—

(i) the member’s 60th birthday; and

(ii) 1st April 2008.”.

(3) For paragraph (3) substitute—

“(3) Subject to paragraph (2), the benefits described in these Regulations will be calculated by reference to a maximum of—

(a) 45 years superannuable service in the case of a member who is not a special class officer;

(b) 45 years superannuable service (of which only 40 years may relate to the period before the member reaches age 55) in the case of a member who is a special class officer,

and if the member’s superannuable service exceeds these limits, the amount of the excess will be ignored.”.

Amendment of regulation 7

5. For regulation 7 (Restrictions on membership) substitute—

“Restrictions on membership

7.—(1) A person may not join the scheme if—

(a) that person is—

(i) under the age of 16; or

(ii) over the age of 75; or

(iii) over the age of 70 on or before 31st March 2008;

(b) that person is a special class officer over the age of 65;

(c) that person is eligible to be an active member of a superannuation scheme established under Article 3 or 11 of the Superannuation (Northern Ireland) Order 1972 in respect of service in that scheme and is such a member;

(d) that person holds an honorary appointment and does not at the same time hold any other employment which entitles him to join the scheme;

(e) that person is not a practitioner and is employed by a GDS or PDS contractor;

(f) that person, on or after 1st April 2008, enters HSC employment for the first time and has not previously been a member of the scheme;

- (g) that person, on or after 1st April 2008, returns to HSC employment and was entitled to a refund of contributions under regulation 50 when he last left employment, unless paragraph (4), but not paragraph (5), of regulation 52 applies to that person;
 - (h) that person is a person who—
 - (i) leaves superannuable employment on, or after, 1st April 2008; and
 - (ii) before returning to HSC employment, exercises his right to transfer out all of his benefits in the scheme in accordance with regulation 53 or 54.
 - (i) that person is a person who has been a member of the Health and Social Care (HSC) Pension Scheme governed by the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2008.
- (2) In paragraph (1)—
- (a) “HSC Pension Scheme 2008” includes a corresponding health service scheme;
 - (b) “superannuable employment” includes employment that qualified the member for a benefit under a health service scheme.
- (3) The Department may permit a person who would otherwise not be permitted to join the scheme in accordance with sub-paragraphs (1)(f) to (h) to do so if—
- (a) that person’s employment is transferred to an employing authority by virtue of a transfer of undertakings or by virtue of arrangements equivalent to a transfer of undertakings (whether or not the transferring employer is in the public sector provided that person’s employment was originally transferred out of the public sector);
 - (b) the employment from which the member is transferred—
 - (i) qualified the member for benefits under an occupational pension scheme, and
 - (ii) the rules of that scheme (in the opinion of the Department) entitle the member to receive benefits on retirement upon, or prior to, attaining the age of 60 years.
- (4) The reference in paragraph (3)(a) to arrangements equivalent to a transfer of undertakings is to arrangements—
- (a) which the Department considers to be equivalent to the transfer of an undertaking, and
 - (b) under which the parties to the arrangements have agreed that the rights of the persons whose employments are being transferred should as far as practicable be treated in the same way as they would have been under a transfer of an undertaking.
- (5) For the purposes of paragraph (3)(b)(ii) a person is not to be treated as being entitled under the rules of a pension scheme to receive benefits upon, or prior to, attaining the age of 60 years, where such entitlement arises by virtue of any scheme rule making special provision—
- (a) as to early retirement on the grounds of ill health, redundancy or otherwise, or
 - (b) for benefits to be reduced for early payment.
- (6) Before permitting a person referred to in paragraph (3) to join the scheme the Department shall take advice from the Scheme Actuary.”.

Amendment of regulation 8

6.—(1) Regulation 8 (Restriction on further participation in the scheme) is amended as provided by paragraphs (2) and (3).

- (2) In paragraph (1), for “regulations 6 and 7” substitute “regulation 6(1)”.
- (3) In paragraph (2), after 13(11) insert “or 13A(11)”.

Amendment of regulation 10

7.—(1) Regulation 10 (Contributions by members) is amended as provided by paragraphs (1) to (3).

- (2) For paragraphs (1) and (2) substitute—

“(1) Each member in superannuable employment must contribute to the scheme in accordance with the following paragraphs.

(1A) For the purposes of determining the relevant contribution rate for the 2008-2009 scheme year a member who meets one of the conditions referred to in paragraph (1B) must contribute 5 per cent of the member's superannuable pay.

(1B) The conditions referred to in paragraph (1A) are—

- (a) the member is in superannuable employment on both the 31st March 2008 and 1st April 2008 with the same employer and that employment is by way of manual labour,
- (b) the member returns to superannuable employment on or after 1st April 2008 and both that employment and the period of superannuable employment immediately preceding that employment is by way of manual labour.

(1C) For the purposes of determining the relevant contribution rate for the 2008-2009 scheme year paragraph (1D) applies to a member who does not meet any of the conditions referred to in paragraph (1B).

(1D) For the 2008-2009 scheme year, a member whose superannuable pay falls into a pay band specified in column 1 of the following table must contribute the percentage of the member's superannuable pay specified in column 2 of that table in respect of that amount.

Table

<i>Column 1</i> <i>Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £19,644	5%
£19,645 to £65,001	6.5%
£65,002 to £102,499	7.5%
£102,500 to any higher amount	8.5%

(2) The Department may make a determination substituting any or all of the pay bands or contribution percentage rates specified in paragraphs (1A) and (1D) with effect from a date specified in the determination.

(2A) Before making a determination under paragraph (2), the Department must consider—

- (a) the advice of the Scheme Actuary, and
- (b) advice from such employee and employer representatives as the Department considers appropriate.

(2B) For the purposes of this regulation—

- (a) “primary employment” means a single superannuable employment for which an employing authority specifies the member's working hours or working patterns;
- (b) “zero hours contract” means superannuable employment in respect of a contract which—
 - (i) an employing authority does not guarantee to provide work for the member;
 - (ii) there are no specified working hours or working patterns;
 - (iii) the member is paid only for work actually done under it.

(2C) For the purposes of determining the relevant contribution rate for the 2008-2009 scheme year paragraphs (2D) to (2J) apply to a member who is in superannuable employment with the same employing authority on both the 31st March 2008 and 1st April 2008.

(2D) For the purposes of paragraphs (2E) to (2J)—

- (a) a member shall be regarded as being in superannuable employment throughout the 2007-2008 scheme year regardless of any period in that year during which the member continues to be employed by the same employer but does not make contributions to the scheme;
- (b) for the purposes of calculation the member's superannuable pay, contributions for any period referred to in (a) shall be deemed to have been paid;
- (c) the amount of superannuable earnings determined in accordance with those paragraphs shall be rounded down to the nearest whole pound;
- (d) if a member holds two or more superannuable employments at the same time—
 - (i) the determinations referred to in paragraphs (2E) to (2J) shall apply to each such employment separately; and

(ii) each such employment shall be treated separately for the purpose of paying contributions.

(2E) If a member—

(a) was in superannuable employment with an employing authority on a whole-time basis throughout the 2007-2008 scheme year; and

(b) is employed by that authority on 1st April 2008,

the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay received during that year.

(2F) If a member—

(a) was in superannuable employment with an employing authority on a part-time basis or under a zero hours contract throughout the 2007-2008 scheme year; and

(b) is employed by that authority on 1st April 2008,

the amount of the member's superannuable pay shall be determined by reference to the amount the Department determines would have been paid in respect of a single comparable whole-time employment during that year.

(2G) If a member—

(a) was in superannuable employment with an employing authority on a combination of a whole-time and part-time basis throughout the 2007-2008 scheme year; and

(b) is employed by that authority on 1st April 2008,

the amount of the member's superannuable pay shall be the aggregate of member's superannuable pay received during that period in respect of the member's whole-time employment and the amount the Department determines would have been paid in respect of a single comparable whole-time employment for that period in respect of the member's part-time employment.

(2H) If a member—

(a) commences superannuable employment with an employing authority on a whole-time basis during the 2007-2008 scheme year; and

(b) is employed by that authority on 1st April 2008,

the amount of the member's superannuable pay shall be determined by the formula—

$$\frac{RSP}{NDSE} \times 365$$

where—

RSP is the superannuable pay received in respect of that employment during the 2007-2008 scheme year;

NDSE is the number of days of superannuable employment with that employer during the 2007-2008 scheme year.

(2I) If a member—

(a) commences superannuable employment with an employing authority on a part-time basis or under a zero hours contract during the 2007-2008 scheme year; and

(b) is employed by that authority on 1st April 2008,

the amount of the member's superannuable pay shall be determined by the formula—

$$\frac{CWTE}{NDSE} \times 365$$

where—

CWTE is the amount the Department determines would have been paid for that employment during the 2007-2008 scheme year in respect of a single comparable whole-time employment

NDSE is the number of days of superannuable employment with that employer during the 2007-2008 scheme year.

(2J) If a member—

(a) commences superannuable employment with an employing authority during the 2007-2008 scheme year and has since been employed on both a whole-time and part-time basis; and

(b) is employed by that authority on 1st April 2008,

the amount of the member's superannuable pay shall be determined by the formula—

$$\frac{(RSP + CWTE)}{NDSE} \times 365$$

where—

RSP is the superannuable pay received for the whole-time employment with that employer during the 2007-2008 scheme year;

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer during the 2007-2008 scheme year;

NDSE is the number of days of superannuable employment with that employer during the 2007-2008 scheme year.

(2K) If a member commences employment under a zero hours contract during the 2008-2009 scheme year, the member shall pay contributions in respect of that employment at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with paragraph (2Q).

(2L) Subject to paragraph (2R), if a member—

(a) commences primary employment at any time during the 2008-2009 scheme year; and

(b) does not have a previous primary superannuable employment during that scheme year in respect of which the member paid contributions under this regulation,

the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with paragraph (2Q).

(2M) If, at any time during the 2008-2009 scheme year, a member who is in a primary employment ("the earlier employment") commences a further primary employment ("the later employment") that is held concurrently with the earlier employment, the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with paragraph (2Q).

(2N) If a member—

(a) ceases to be in a primary employment ("the earlier employment") that is not held concurrently with another primary employment at any time during the 2008-2009 scheme year,

(b) after so ceasing next commences a further primary employment ("the later employment"), and

(c) that further employment is not held concurrently with another primary employment,

the member shall continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2O) If a member—

(a) at any time during the 2008-2009 scheme year ceases to be in two or more primary employments that were at one time held concurrently with each other ("the earlier employments");

(b) those earlier employments did not all cease on the same day; and

(c) that member next commences a further primary employment (“the later employment”), the member shall continue to pay contributions in respect of the later employment at the same rate as that which applied to whichever of the earlier employments was the last to cease.

(2P) If a member—

- (a) at any time during the 2008-2009 scheme year ceases to be in two or more primary employments that were at one time held concurrently with each other (“the earlier employments”);
- (b) the last two or more of those earlier employments ceased on the same day;
- (c) after the cessation of those earlier employments, next commences a further primary employment (“the later employment”); and
- (d) that further primary employment is not held concurrently with another primary employment,

the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member’s superannuable pay determined in accordance with paragraph (2Q).

(2Q) Where paragraph (2K), (2L), (2M) or (2P) apply the Department shall determine the member’s superannuable pay—

- (a) by applying the formula—

$$\frac{ESP}{NDSE} \times 365$$

where—

ESP is the estimated superannuable pay that the member’s employing authority estimates will be payable to the member in respect of that employment during the 2008-2009 scheme year

NDSE is the number of days of superannuable employment from the date employment commences to the end of 2008-2009 scheme year; and

- (b) if the further employment is part-time employment, by determining how much would be paid in respect of a whole-time comparable employment,

with the amount determined under sub-paragraph (a) being the member’s superannuable pay for the purposes of this regulation if the further employment is whole-time employment and the amount determined under sub-paragraph (b) being the member’s superannuable pay for the purposes of this regulation if the further employment is part-time employment.

(2R) If a member—

- (a) at any time during the 2008-2009 scheme year is in superannuable employment in respect of which he pays contributions in accordance with paragraph 10 of Schedule 2 (“the earlier employment”);
- (b) ceases all such earlier superannuable employments;
- (c) after so ceasing, next commences a primary employment which is the first primary employment held by the member during the 2008-2009 scheme year (“the later employment”),

the member shall continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment or, if there is more than one earlier employment, at the same rate as that which applied to whichever of those earlier employments was the last to cease.

(2S) Paragraph (2R) shall not apply if, during the 2008-2009 scheme year, the member—

- (a) has superannuable employment both as a general medical practitioner and a dentist performer; and
- (b) ceases both of those employments on the same day.

(2T) If none of paragraphs (2E) to (2R) apply—

- (a) the Department must determine the amount of the member’s superannuable pay, and in doing so shall, in addition to the matters referred to in paragraph (2A), have regard to the

superannuable pay attributable to superannuable employment comparable to the member's employment, prevailing pay scales and prevailing rates of superannuable allowances, and

(b) the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1D) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with sub-paragraph (a).".

(3) In paragraph (4)—

(a) for "70" substitute "75";

(b) omit "and reaches age 65".

Amendment of regulation 11

8.—(1) Regulation 11 (Contributions by employing authorities) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (3)(a)—

(a) omit "or 15 (Early retirement pension (employers consent))";

(b) in sub-paragraph (a) after "14", insert "(including any amount of pension that is exchanged for a lump sum under regulation 17A)".

(c) in sub-paragraph (b)—

(i) after "pension", insert "(including any amount of pension that is exchanged for a lump sum under regulation 17A)", and

(ii) omit paragraph (i).

(3) In paragraph (7)(a) and (b)(b), omit "or 15".

Amendment of regulation 12

9.—(1) Regulation 12 (Normal retirement pension) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (3) for "70" substitute "75".

(3) After paragraph (3) add—

"(4) Subject to paragraph (5), where a member leaves superannuable employment on or after the 1st April 2008 becomes entitled to a pension under this regulation, the Department may discharge its liability for that pension by payment of a lump sum of an amount consistent—

(a) with the contracting-out preservation requirements of the 1993 Act;

(b) the lump sum rule.

(5) A lump sum payment under paragraph (4) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(6) For the purposes of paragraph (5), the Department may require whatever medical evidence that it considers necessary.

(7) The amount of the lump sum payable under paragraph (4)—

(a) will be equal to 5 times the yearly rate of the member's pension (calculated in accordance with this regulation); and

(b) shall be payable in addition to the lump sum on retirement payable under regulation 17 (which shall not be subject to any reduction under regulation 17(3)) and the lump sum in place of part of a pension payable under regulation 17A.

(8) For the purposes of calculating the amount of lump sum payable under paragraph (7), the member will be treated as if he had made an election under regulation 17A to receive the maximum amount of a further lump sum payable under that regulation.".

(a) Paragraph (3) was amended by S.R. 2008 No. 96

(b) Paragraph (7) was amended by S.R. 2008 No. 96

Amendment of regulation 13

10.—(1) Regulation 13 (Early retirement pension (ill-health)) is amended as provided by paragraphs (2) to (5).

(2) Before paragraph (1) insert—

“(A1) This regulation applies to a member who—

(a) retires from superannuable employment on or after 1st April 2008—

(i) who submitted Form AW33 (or such other form as the Department accepted) together with supporting medical evidence if not included in the form, and

(ii) that form was received by the Department before the 1st April 2008; or

(b) returns to employment which attracts a pension in accordance with paragraph (11).”.

(3) In paragraph (1) after “A member” insert “to whom this regulation applies”.

(4) In paragraph (10)(b), after “reduction under regulation 17(3)” add “and the lump sum in place of part of pension payable under regulation 17A”.

(5) After paragraph (11) add—

“(12) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation 17A to receive the maximum amount of further lump sum payable under that regulation.”.

Insertion of new regulations 13A, 13B and 13C

11. After regulation 13 insert—

“Ill health pension on early retirement

13A.—(1) This regulation applies to a member who—

(a) retires from superannuable employment on or after 1st April 2008;

(b) did not submit a Form AW33 (or such other form as the Department accepted) together with supporting medical evidence if not included in the form pursuant to regulation 13 which was received by the Department before 1st April 2008, and

(c) is not in receipt of a pension under regulation 13.

(2) A member to whom this regulation applies who retires from superannuable employment before normal benefit age shall be entitled to pension under this regulation if—

(a) the member has at least 2 years qualifying service or qualifies for a pension under regulation 12; and

(b) the member’s employment is terminated because of physical or mental infirmity as a result of which he is—

(i) permanently incapable of efficiently discharging the duties of that employment (the “tier 1 condition”); or

(ii) permanently incapable of regular employment of like duration (the “tier 2 condition”) in addition to meeting with the tier 1 condition.

(3) Subject to paragraph (4), the pension to which a member is entitled—

(a) upon satisfaction of the tier 1 condition (“the tier 1 pension”), or

(b) upon satisfaction of the tier 2 condition in addition to meeting the tier 1 condition (“the tier 2 pension”),

will be calculated as described in regulation 12.

(4) Subject to paragraphs (5) and (6), if the member meets the tier 2 condition in addition to meeting the tier 1 condition, the superannuable service on which the pension is based will be increased by two-thirds of the superannuable service the member could have completed had he stayed in superannuable employment until normal benefit age.

(5) If the member’s employment is terminated on or before 31st March 2016, the minimum amount by which his superannuable service will be increased under paragraph (4) will be the lesser of—

- (a) 4 years superannuable service; and
 - (b) the superannuable service the member could have completed if he had stayed in superannuable employment until normal benefit age.
- (6) To the extent that any increase under paragraph (4) or (5) would cause a member's superannuable service to exceed the limit provided for in regulation 4(3), (Meaning of superannuable service), the amount of any excess will be reduced accordingly.
- (7) Subject to paragraph (8), where a member becomes entitled to a pension by virtue of meeting the tier 2 condition, the Department may discharge its liability for that pension by the payment of a lump sum of an amount consistent—
- (a) with the contracting-out and preservation requirements of the 1993 Act; and
 - (b) the lump sum rule.
- (8) A lump sum payment under paragraph (7) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.
- (9) For the purpose of paragraph (8), the Department may require whatever medical evidence that it considers necessary.
- (10) The amount of the lump sum payable under paragraph (7)—
- (a) will be equal to 5 times the yearly rate of the member's pension (calculated in accordance with this regulation); and
 - (b) shall be payable in addition to the lump sum on retirement payable under regulation 17 (which shall not be subject to any reduction under regulation 17(3)) and the lump sum in place of part of pension payable under regulation 17A.
- (11) The employment of a member to whom a pension is payable under this regulation may be superannuable under the scheme if he is under age 50—
- (a) on the date the member returns to HSC employment if he became entitled to receive a pension under a tier 1 condition on the day he retired from superannuable employment; or
 - (b) on the day after the protection period in regulation 13C(6)(b) ends if—
 - (i) the member became entitled to receive a pension under a tier 2 condition on the day the member retired from superannuable employment.
 - (ii) the Department did not discharge its liability for that pension by payment of a lump sum in accordance with paragraph (7); or
 - (c) on the day after the protection period in regulation 13C(6)(b) ends—
 - (i) the member became entitled to receive a pension under a tier 2 condition in place of a pension under a tier 1 condition on the date of the Department's determination under regulation 13B, and
 - (ii) the Department did not discharge its liability for that pension by the payment of a lump sum in accordance with paragraph (7).
- (12) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation 17A to receive the maximum amount of a further lump sum payable under that regulation.
- (13) For the purposes of determining whether a member is permanently incapable of efficiently discharging the duties of the member's employment under paragraph (2)(b)(i), the Department shall have regards to factors in paragraph (15) (no one of which shall be decisive) and disregard the member's personal preferences for or against engaging in that employment.
- (14) For the purposes of determining whether a member is permanently incapable of regular employment under paragraph (2)(b)(ii), the Department shall have regard to the factors in paragraph (16) (no one of which shall be decisive) and disregard the factors in paragraph (17).
- (15) The factors to be taken into account for paragraph (13) are—
- (a) whether the member has received appropriate medical treatment in respect of the incapacity;
 - (b) the member's—
 - (i) mental capacity; and

- (ii) physical capacity;
 - (c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of the member's incapacity, irrespective of whether such rehabilitation is undergone; and
 - (d) any other matter the Department considers appropriate.
- (16) The factors to be taken into account for paragraph (14) are—
- (a) whether the member has received appropriate medical treatment in respect of the incapacity; and
 - (b) such reasonable employment as the member would be capable of engaging in if due regard is given to the member's—
 - (i) mental capacity;
 - (ii) physical capacity;
 - (iii) previous training; and
 - (iv) previous practical, professional and vocational experience,
 irrespective of whether or not such employment is actually available to the member;
 - (c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of a member's incapacity (irrespective of whether such rehabilitation is undergone) having regard to the member's—
 - (i) mental capacity, and
 - (ii) physical capacity;
 - (d) such type and period of training which it would be reasonable for the member to undergo in respect of a member's incapacity (irrespective of whether such training is undergone) having regard to the member's—
 - (i) mental capacity,
 - (ii) physical capacity,
 - (iii) previous training, and
 - (iv) previous practical, professional and vocational experience, and
 - (e) any other matter which the Department considers appropriate.

- (17) The factors to be disregarded for paragraph (14) are—
- (a) the member's personal preference for or against engaging in any particular employment; and
 - (b) the geographical location of the member.

(18) For the purpose of this regulation—

“appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the incapacity, but does not include any treatment that the Department considers—

- (a) that it would be reasonable for the member to refuse,
- (b) would provide no benefit to restoring the member's capacity for—
 - (i) efficiently discharging the duties of the member's employment under paragraph (2)(b)(i), or
 - (ii) regular employment of like duration under paragraph (2)(b)(ii),
 before the member reaches normal benefit age; and
- (c) that, through no fault on the part of the member, it is not possible for the member to receive before the member reaches normal benefit age;

“permanently” means the period until normal benefit age; and

“regular employment of like duration” means—

- (a) in the case of a non-GP provider, such employment as the Department considers would involve a similar level of engagement to the member's current superannuable service as a non-GP provider; and
- (b) in all other cases, where prior to retiring from employment that is superannuable the member was employed—

- (i) on a whole-time basis, regular employment on a whole-time basis;
- (ii) on a part-time basis, regular employment on a part-time basis,

regard being had to the number of hours, half days and sessions the member worked in that superannuable employment.

Re-assessment of ill-health condition determined under regulation 13A

13B.—(1) This regulation applies to a member in receipt of a tier 1 pension under regulation 13A.

(2) A member to whom this regulation applies may ask the Department to consider whether he subsequently meets the tier 2 condition if—

- (a) by notice in writing at the time of award of the pension, the Department informed the member that the member's case may be considered once within a period of three years commencing with the date of that award to determine whether the member satisfies the tier 2 condition at the date of such a consideration;
- (b) within that three year period the member provides further medical evidence to the Department relating to the satisfaction of the tier 2 condition at the date of the Department's consideration; and
- (c) that further medical evidence relates to the same physical or mental infirmity that qualified the member for the member's tier 1 pension.

(3) If, after considering the further medical evidence provided by a member, the Department determines that the member satisfies the tier 2 condition—

- (a) it shall pay from the date of that determination a tier 2 pension under regulation 13A(2) in place of the tier 1 pension being paid to that member; and
- (b) that pension shall be calculated in accordance with paragraph (4) of regulation 13A and as if that paragraph included the words "from the date of the Department's determination under regulation 13B" after "employment".

(4) Only one consideration of a member's case may be undertaken under this regulation.

Further employment after a benefit is paid under regulation 13A

13C.—(1) This regulation applies to a member who—

- (a) is in receipt of a tier 2 pension under regulation 13A ("the original pension"); and
- (b) enters into further employment.

(2) Such a member shall be paid a tier 1 pension ("a substitute pension") in place of the original pension—

- (a) from the next substitute pension payment date following the day on which his annual earnings from further employment (whether in HSC employment or otherwise) in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year; or
- (b) in the case of a member who enters into further HSC employment, from the next substitute pension payment date following the first day on which the member is so employed which falls after the anniversary of the member's entry into the further HSC employment (whether or not that day is part of a continuous period of further HSC employment beginning with his entry into that employment),

if sooner.

(3) A member who is in receipt of a substitute pension may ask the Department to consider reinstating the original pension if—

- (a) the member is under normal benefit age;
- (b) the member makes such a request in writing and provides supporting medical evidence to the Department before the end of the protection period; and
- (c) the member's further employment is terminated before the end of the protection period.

(4) If, after considering that evidence, the Department determines that the member again satisfies a tier 2 condition in respect of the member's earlier employment, it shall recommence paying, from the day after the date that the further employment is terminated, the original pension in place of the substitute pension.

- (5) A member to whom this regulation applies who is in receipt of a tier 2 pension must—
- (a) notify the Department immediately and in writing if either of the following applies—
 - (i) the member's annual earnings in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year;
 - (ii) the member is engaged in further HSC employment after the end of the protection period in paragraph (6)(b);
 - (b) provide any other information in connection with the member's earnings or further employment requested by the Department or any other person that the Department may specify.
- (6) In this regulation "the protection period" means—
- (a) a period of one year beginning with the day on which the member's annual earnings from further employment that is not HSC employment first exceed the lower earnings limit for national insurance contributions applicable to that year; or
 - (b) a period of one year beginning with the first day the member enters into further HSC employment."

Amendment of regulation 14

12. After paragraph (1)(a)(ii) of regulation 14(a) (Early retirement pension (redundancy etc)) insert—

“(iia) returns to superannuable employment on or after that date that attracts a pension in accordance with regulation 13(11) or 13A(11);”.

Omission of regulation 15

13. Regulation 15 (Early retirement pension (employer's consent)) is omitted.

Insertion of new regulation 17A

14. After regulation 17 (Lump sum on retirement) insert—

“General option to exchange part of pension for lump sum

17A.—(1) This regulation applies to a member who is in superannuable employment on or after 1st April 2008.

(2) A member may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum, which must be an evenly divisible multiple of £12.

(3) If a member so opts, for every £1 by which the member's annual pension is reduced, the member is to be paid a lump sum of £12.

(4) An option under paragraph (2) must relate to an annual amount of pension that is a number of whole pounds (and accordingly the lump sum will be exactly divisible by 12).

(5) In paragraph (4) “annual amount” in relation to a pension means the amount of the annual pension to which the member would be entitled under these regulations apart from the option, together with any increases payable under the Pensions (Increase) Act (Northern Ireland) 1971, calculated as at the time the payment would be first due.

(6) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act**(b)**.

(a) Amended by regulation 3(5) of S.R. 2008 No. 96

(b) See, in particular, section 241 of, and paragraph 1 of Schedule 29 to, that Act

(7) If the member has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of a pension, paragraph (2) only applies to so much of the pension as exceeds that guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the Scheme Actuary.

(8) The option under this regulation may only be exercised by giving notice in writing to the Department in the form required by the Department—

- (a) at the time of claiming the pension; or
- (b) before a later time specified in writing by the Department.”.

Amendment of regulation 18

15.—(1) Regulation 18 (Member dies in superannuable employment) is amended as provided by paragraphs (2) to (4).

(2) In paragraph (1)(a) for “70”, substitute “75”.

(3) In paragraph (1A)(c) after “pay contributions”, insert “from a date that falls before 1st April 2008”.

(4) After paragraph (1A) insert—

“(1B) A lump sum on death shall be payable in accordance with regulation 22 where, on the day the member died, the member is—

- (a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;
- (b) in HSC employment;
- (c) no longer required to pay contributions from a date that falls on or after 1st April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and
- (d) except where regulations 13(11), 13A(11) or 77(6) apply, not in receipt of a pension under any of regulations 12 to 16.”.

Amendment of regulation 19

16.—(1) Regulation 19 (Member dies after pension becomes payable) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (2) for the words “the member's retirement lump sum” to the end, substitute—
“the aggregate of—

- (a) the member's retirement lump sum paid under regulation 17 (Lump sum on retirement); and
- (b) any lump sum paid to the member under regulation 17A (General option to exchange part of pension for lump sum).”.

(3) After paragraph (5) add—

“(6) If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(6)(a) or 13C(6)(b), the member's pension referred to in paragraph (2) means that member's original tier 2 pension.”.

Substitution of regulation 22

17. For regulation 22 (Payment of lump sum) substitute—

“Payment of lump sum

22.—(1) A lump sum under any of regulations 17 to 21 shall be paid in accordance with the following paragraphs.

(a) Paragraph 1 was amended by S.R. 2006 No. 410

(2) If a member dies without leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to the member's personal representatives.

(3) If a member dies leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to that surviving partner unless—

- (a) the member has given notice to the Department that the surviving partner is not to receive the payment and has not revoked that notice; or
- (b) the surviving partner has been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that the surviving partner's right to payment in respect of the member's death shall be forfeited; or
- (c) payment to the surviving partner is not, in the opinion of the Department, reasonably practicable,

in which case the lump sum shall be paid to the member's personal representatives.

(4) If a member dies having made a nomination in favour of one nominee (whether or not he also leaves a surviving partner), the lump sum shall be paid to that nominee unless—

- (a) the member has given notice to the Department revoking that nomination; or
- (b) the nominee has died before the payment could be made; or
- (c) the nominee has been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that his right to payment in respect of the member's death shall be forfeited; or
- (d) payment to the nominee is not, in the opinion of the Department, reasonably practicable,

in which case the lump sum shall be paid to the member's personal representatives.

(5) If a member dies having made a nomination in favour of two or more persons (whether or not he also leaves a surviving partner) and has not given notice to the Department revoking that notice, the lump sum shall be paid to those nominees, unless—

- (a) one or more of those nominees has—
 - (i) died before the payment could be made; or
 - (ii) been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that his or their right to payment in respect of the member's death shall be forfeited; or
- (b) the Department is of the opinion that payment to one or more of the nominees is not reasonably practicable,

in which case the percentage of the lump sum due to that nominee, or as the case may be, those nominees shall be paid to the member's personal representatives.

(6) A nomination may only be made by a member—

- (a) who is in superannuable employment in the scheme at the time of making the nomination; or
- (b) whose superannuable employment in the scheme ceased on, or after, 1st April 2008.

(7) A nomination shall specify one or more persons who may be—

- (a) an individual;
- (b) a body corporate;
- (c) an unincorporated body; or
- (d) the member's personal representatives,

but is not entitled to specify one or more persons referred to in sub-paragraph (a) together with a body referred to in either of sub-paragraph (b) or (c).

(8) A nomination or notice referred to in this regulation is only valid—

- (a) if addressed to the Department;
- (b) upon receipt by the Department;
- (c) if made (or revoked) in writing;

(d) if it nominates the whole of the lump sum to a nominee and, in the case of a nomination specifying more than one individual, if it also specifies the percentage of the lump sum to be paid to each such individual.

(9) A member who has any superannuable employment in the scheme on or after 1st April 2008 cannot give a notice referred to in paragraph (3)(a).

(10) If the lump sum on death does not exceed the specified amount, the Department may pay it to any person claiming to be the member's personal representative or to be entitled to a share of it, without requiring proof of the title of the person concerned.

(11) In paragraph (10), the specified amount means £5,000 or any higher amount specified in an order made under section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967(a) as the amount to be treated as substituted for references to £500 in section 1 of that Act.

(12) In this regulation "surviving partner" means a—

- (a) widow; or
- (b) widower; or
- (c) civil partner; or
- (d) nominated partner,

who survives the member.”.

Substitution of section heading “Widows and Widowers”

18. For the heading before regulation 23 substitute—
“SURVIVING PARTNER PENSIONS”

Amendment of regulation 23

19. After paragraph (1) of regulation 23 (Widow's pension) insert—

“(1A) Paragraphs (2) to (7) apply if a member's superannuable employment ceases before 1st April 2008.”.

Amendment of regulation 24

20.—(1) Regulation 24 (Member dies in superannuable employment) is amended as provided by paragraphs (2) to (5).

(2) After paragraph (3) insert—

“(3A) Paragraphs (3B) to (5) apply if a member dies on or after 1st April 2008.

(3B) The widow's pension for the first 6 months after the member's death will be equal to the rate of the member's superannuable pay when he died if that amount is greater than the amount of widow's pension that would otherwise be payable under these Regulations.

(3C) Except while the widow's pension is payable at the rate mentioned in paragraph (3B), if the member dies with 2 years or more qualifying service, the widow's pension will be equal to one-half of the pension to which the member would have been entitled if, on the date of death, the member had become entitled to a tier 2 pension under regulation 13A.”.

(3) In paragraphs (4) and (5), after “paragraph (2)” insert “or (3B)”.

(4) In paragraph (6)(c) after “pay contributions”, insert “on or before 1st April 2008”.

(5) After paragraph (7) add—

“(8) The widow's pension payable on a member's death if, on the day the member died, the member is—

(a) 1967 c. 5 (N.I.)

- (a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;
- (b) in HSC employment;
- (c) no longer required to pay contributions on or after 2nd April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and
- (d) except where regulation 77(6) (Member's doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16,

will be as described in paragraphs (3B) and (3C), but with the modifications set out in paragraph (9).

- (9) The modifications referred to in paragraph (8) are—
 - (a) in paragraph (3B), for “member’s superannuable pay when he died” substitute “member’s final year’s superannuable pay”, and
 - (b) in paragraph (3C), for “on the date of death” substitute “on the member’s last day of superannuable employment”.”.

Amendment of regulation 25

21. After paragraph (5) of regulation 25 (Member dies after pension becomes payable) add—

“(6) If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(6)(a) or 13C(6)(b), the member’s pension referred to in paragraph (2) means that member’s original tier 2 pension.

(7) For the purposes of paragraphs (2) and (4), no account will be taken of any reduction to the member’s pension under regulation 17A (General option to exchange part of pension for lump sum).”.

Amendment of regulation 26

22. For paragraph (2) of regulation 26 (Member dies with preserved pension) substitute—

“(2) If the member leaves superannuable employment before 1st April 2008 and dies within 12 months after leaving, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under the scheme if the member had retired through ill-health with a pension under regulation 13 on the day he left superannuable employment.

(2A) If the member leaves superannuable employment on or after 1st April 2008 and dies within 12 months after leaving, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under the scheme if the member had retired through ill-health with a tier 2 pension under regulation 13A on the day he left superannuable employment.”.

Amendment of regulation 29

23. For paragraph (4) of regulation 29 (Widower’s pension) substitute—

“(4) If regulation 24(3), 24(3C), 26(2) or 26(2A) applies to the calculation of the widower’s pension on a member’s death in superannuable employment or with a preserved pension—

- (a) the whole of the member’s superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4), in the superannuable service on which the member’s pension under regulation 13 or 13A would have been based; and
- (b) the whole period (if any) by which the member’s pension would have been increased will be treated as superannuable service after 5th April 1988.”.

Amendment of regulation 30

24. In paragraph (6) of regulation 30 (Dependent’s widowers pension) after “regulation 13(10)”, insert “, regulation 13A(10)”.

Amendment of regulation 31

25.—(1) Regulation 31 (Increased widower’s pension) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (3), after “regulation 13(10)”, insert “, regulation 13A(10)”.

(3) After paragraph (4) add—

“(5) If a female member who has made an election under this regulation—

(a) is in superannuable employment on 1st April 2008, or returns to such employment after that date; and

(b) dies without leaving a widower but leaving a surviving civil partner or, as the case may be, a surviving nominated partner,

the widower’s pension described in paragraph (1) shall be paid to that surviving partner.”.

Amendment of regulation 31A

26. For paragraph (4) of regulation 31A (Surviving civil partner’s pension) substitute—

“(4) If regulation 24(3), 24(3C), 26(2) or 26(2A) applies to the calculation of the surviving civil partner’s pension on a member’s death in superannuable employment or with a preserved pension—

(a) the whole of the member’s superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4), in the superannuable service on which the member’s pension under regulation 13 or 13A would have been based; and

(b) the whole period (if any) by which the member’s pension would have been increased will be treated as superannuable service after 5th April 1988.”.

Amendment of regulation 31B

27. In paragraph (6) of regulation 31B (Dependent surviving civil partner’s pension), after “regulation 13(10)”, insert “, regulation 13A(10)”.

Amendment of regulation 31D

28.—(1) Regulation 31D (Increased surviving civil partner’s pension) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (3), after “regulation 13(10)”, insert “, regulation 13A(10)”.

(3) After paragraph (5) add—

“(6) If a member who has made an election under this regulation—

(a) is in superannuable employment on 1st April 2008, or returns to such employment after that date; and

(b) dies without leaving a civil partner but leaving a surviving widower or, as the case may be, a surviving nominated partner,

the surviving civil partner’s pension described in paragraph (1) shall be paid to that surviving widower, or as the case may be, that surviving nominated partner.”.

Insertion of new regulations 31E — 31H

29. After regulation 31D insert—

“Surviving nominated partner’s pension

31E.—(1) A member who has superannuable service on or after 1st April 2008 may, by giving notice in writing to the Department, nominate a person (“the nominated partner”) to receive a surviving nominated partner pension on the member’s death and such a nomination shall be effective from the date the Department accepts it.

- (2) The Department must accept a member's nomination if—
- (a) the member and the nominated partner have jointly made and signed a declaration in the form required by the Department that remains effective at the member's death; and
 - (b) the nominated partner satisfies the Department that for a continuous period of at least two years ending with the member's death—
 - (i) the member and the nominated partner were living together as if they were husband and wife or civil partners; or
 - (ii) the member and the nominated partner were not prevented from marrying or entering into a civil partnership; or
 - (iii) the member and the nominated partner were financially interdependent or the nominated partner was financially dependent on the member; or
 - (iv) neither the member nor the nominated partner was living with a third person as if they were husband and wife or as if they were civil partners.
- (3) A declaration under paragraph (2)(a) ceases to have effect if—
- (a) it is revoked by the member or the nominated partner by a signed notice in writing given to the Department in the required form (if any); or
 - (b) the member makes a later declaration under paragraph (2)(a); or
 - (c) the member or the nominated partner marries or enters into a civil partnership.
- (4) If the Department has accepted a member's nomination and the member subsequently dies before his nominated partner in the circumstances described in any of regulations 24 to 28 the nominated partner is entitled to a pension as described in paragraphs (6) to (10).
- (5) Subject to paragraph (6), regulations 23 to 28 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows and paragraph (1) of regulation 28 shall be read as if, for the words "where the member and his wife were not married to each other", it said "where a nomination for a surviving partner pension was not effective".
- (6) When calculating a nominated partner's pension, any part of the member's benefit that is based on superannuable service before 6th April 1988 will, subject to paragraphs (7) and (8), be disregarded.
- (7) If paragraph (3) or (3C) of regulation 24 or paragraph (2) or (2A) of regulation 26 apply to the calculation of the nominated partner's pension on a member's death in superannuable employment or with a preserved pension—
- (a) the whole of the member's superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4) in the superannuable service on which the member's pension under regulation 13 or 13A would have been based; and
 - (b) the whole period (if any) by which the member's pension would have been increased will be treated as superannuable service after 5th April 1988.
- (8) If regulation 25(2) applies to the calculation of the nominated partner's pension, so that the nominated partner's pension is equal to the member's pension for a limited period, the nominated partner's pension for that limited period will be equal to the whole of the member's pension (including any part of the member's pension that is based on superannuable service before 6th April 1988).
- (9) Any reference in these Regulations to regulations 23 to 28 means, in relation to benefits in respect of a member who has nominated a partner, those regulations as applicable to the member's nominated partner (if any).

Dependent surviving nominated partner's pension

31F.—(1) A member may, by giving notice in writing to the Department before leaving superannuable employment, apply for his nominated partner to receive a dependent surviving nominated partner's pension on the member's death.

(2) The Department must accept a member's application only if it is satisfied that the member's nominated partner is—

- (a) permanently incapable of earning a living because of physical or mental infirmity; and
- (b) wholly or mainly dependent on the member.

(3) If the Department has accepted a member's application and the member subsequently dies before his nominated partner, the dependent surviving nominated partner is entitled to a dependent surviving nominated partner's pension.

(4) The dependent surviving nominated partner's pension is to be calculated in the same way as a widow's pension under regulations 23 to 28 but based only on the member's superannuable service before 6th April 1988.

(5) If the Department has accepted a member's application for a dependent surviving nominated partner's pension and the member's superannuable service started before 6th April 1988 any lump sum payable to the member will be reduced by an amount equal to 1.4 times the yearly rate of the part of the member's pension that is based on superannuable service before 6th April 1988 (except to the extent that any reduction has been off-set under regulation 68).

(6) If regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a member who has a nominated partner, any reference in those provisions to a lump sum payable on retirement means, in relation to a member to whom paragraph (5) refers, a lump sum that is not reduced as described in that paragraph.

Purchase of surviving partner's pension in respect of service before 6th April 1988

31G.—(1) Subject to this regulation, an officer in respect of whom a pension has not already become payable under regulation 13 or 13A may, in respect of the whole or any part of his contributing service before 6th April 1988, elect to purchase an increase in the amount of any survivor's pension that becomes payable under the scheme.

(2) The purchase of an increase under paragraph (1) may be made only in respect of complete years of service, unless the officer wishes to purchase an increase in respect of all of his service before 6th April 1988, in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election under paragraph (1)—

- (a) must not be made later than 30th June 2009;
- (b) must be made by notice in writing, given to the Department;
- (c) must specify the period in respect of which the election is made;
- (d) must be accompanied by a declaration in writing signed by the officer that he is of sound health for his age;
- (e) is irrevocable.

(4) Each figure in tables 2 and 4 of Schedule 1 is multiplied by a factor of 0.7 in respect of the cost of providing the increase provided under paragraph (1).

(5) In this regulation "survivor's pension" means a pension that becomes payable by virtue of—

- (a) regulation 29; or
- (b) regulation 31A; or
- (c) regulation 31E.

Increased surviving partner's pension

31H.—(1) If a member elects on or before 30th June 2009 to buy an increased surviving partner's pension under regulation 31G(1), any survivor's pension that becomes payable in respect of that member will be based on superannuable service after 5th April 1988 plus any period of superannuable service before that date that the member elected to buy for this purpose under regulation 31G(1).

(2) Any survivor's pension payable in respect of the member shall be paid to (as the case may be) the member's surviving widower, civil partner or nominated partner regardless of whether that pension is payable by virtue of regulation 29, regulation 31A or regulation 31E.

(3) Subject to paragraph (4), any retirement lump sum payable to a member under regulation 17, in respect of any period of superannuable service that the member elected to buy as described in paragraph (1), will be reduced by 1.4 times the yearly rate of the member's pension plus the relevant daily proportion of that rate for each additional day (except to the extent that any lump sum reduction has been off-set under regulation 68) (Right to buy an unreduced retirement lump sum).

(4) If regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a member to whom this regulation refers, any reference in those regulations to a lump sum payable on retirement must be taken to mean a lump sum that is not reduced as described in paragraph (2).

(5) Subject to paragraph (6) if, by virtue of an election under regulation 31G(1), the amount of the retirement lump sum would fall to be reduced by 1.4 times the yearly rate of a member's pension plus the relevant daily proportion of that rate for each additional day, he may make an election to purchase an unreduced lump sum under regulation 68 provided that the election is made no later than 30th June 2009.

(6) A member who has purchased additional service in accordance with regulation 67 by way of a payment under regulation 72 is not entitled to make an election under paragraph (4) in respect of the purchase of an unreduced lump sum.”.

Amendment of regulation 32

30.—(1) Regulation 32 (Dependent child) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (1)—

(a) in sub-paragraph (c)(a), for “or civil partner” substitute “, civil partner or nominated partner”;

(b) after sub-paragraph (d) add—

“(e) a child of a member's nominated partner from a nominated partnership formed before the date on which the member leaves superannuable employment,”.

(3) After paragraph (2) insert—

“(2A) A child is a dependent child of a person whose superannuable employment ceases on or after 1st April 2008 for so long as he is—

(a) under age 23; or

(b) aged 23 or over and incapable of earning a living because of permanent physical or mental infirmity from which he was suffering at the time the member died.”.

(4) In paragraph (3)(b), for “A child is a dependent child” substitute “Subject to paragraphs (6) and (7), a child is a dependent child of a person whose superannuable employment ceases on or before 31st March 2008”.

(5) In paragraph (5) omit the words from “(calculated” to “omitted)”.

Amendment of regulation 34

31.—(1) Regulation 34 (Member dies in superannuable employment) is amended as provided by paragraphs (2) to (6).

(2) In paragraph (2) after “paragraph (3),” insert “if the member dies before 1st April 2008”.

(3) After paragraph (2) insert—

“(2A) If the member died on or after 1st April 2008 the allowance will be calculated as described in whichever of paragraph (4A) or (4D) applies—

(a) as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill-health and had qualified for a tier 2 pension under regulation 13A on the day the member died; or

(a) Sub-paragraph (c) was amended by S.R. 2005 No. 533
(b) Paragraph (3) was amended by S.R. 2006 No. 410

(b) if greater, the amount that the member's pension would have been if it had been based on 10 years superannuable service.”.

(4) After paragraph (4) insert—

“(4A) Subject to paragraphs (4B) to (4E), if the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2A) if there is only one dependent child and one-half if there are two or more.

(4B) If a widow's, widower's, surviving civil partner's or nominated partner's pension is payable at the rate mentioned in regulation 24(3B), the allowance payable in respect of any dependent child who is dependent on that widow, widower, surviving civil partner or surviving nominated partner will be payable from the day following the member's death.

(4C) If a widow's, widower's, surviving civil partner's or nominated partner's pension is payable at the rate mentioned in regulation 24(3B) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or surviving nominated partner, the allowance in respect of that child for the first three months after the member's death will be equal to the rate of member's superannuable pay when the member died.

(4D) If a member dies leaving a dependent child and there is no surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-third of the pension described in paragraph (2A) if there is only one dependent child and two-thirds if there are two or more, except that the allowance for the first six months after the member's death will be equal to the rate of the member's superannuable pay when the member died.

(4E) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent) but there is no entitlement to a widow's, widower's or surviving civil partner's pension calculated under regulation 24 (Member dies in superannuable employment), the allowance will be paid at the rates described in paragraph (4D).”.

(5) For paragraph (9) after “pay contributions”, insert “on or before 1st April 2008” and for “paragraphs (2) to (8)”, substitute “paragraph (2)”.

(6) After paragraph (10) add—

“(11) The child allowance payable on a member's death if, on the day the member died, the member is—

- (a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;
- (b) in HSC employment;
- (c) no longer required to pay contributions on or after 2nd April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and
- (d) except where regulation 77(6) (Members doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16,

will be as described in paragraph (2A) but with the modifications set out in paragraph (12).

(12) The modifications referred to in paragraph (11) are—

- (a) in paragraph (2A)(a) for “on the day he died” substitute “on the member's last day of superannuable employment”; and
- (b) in both paragraphs (4C) and (4D) for “member's superannuable pay when he died” substitute “member's final year's superannuable pay”.”.

Amendment of regulation 35

32.—(1) Regulation 35 (Member dies after pension becomes payable) is amended as provided by paragraphs (2) to (4).

(2) For paragraph (2) substitute—

“(2) Subject to paragraphs (2A) and (8), the allowance will be calculated, as described in whichever of paragraph (3) or (4) applies, as a proportion of the amount of the member's pension or, if greater, the amount that the member's pension would have been if it had been based on 10 years superannuable service.

(2A) If the member's superannuable employment ceased on or before 31st March 2008, the allowance will be calculated in whichever of paragraph (3) or (4) applies, as a proportion of the amount of the member's pension or, if greater, the amount that the member's pension would have been if it had been based on the shorter of—

(a) 10 years superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until age 65.”.

(3) In paragraph (3), after “or civil partner” insert “or nominated partner”.

(4) After paragraph (8) add—

“(9) If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(7)(a) or 13C(7)(b), the member's pension referred to in paragraph (2) means that member's original tier 2 pension.

(10) For the purpose of paragraphs (2) and (7), no account will be taken of any reduction to the member's pension under regulation 17A (General option to exchange part of pension for lump sum).”.

Amendment of regulation 36

33.—(1) Regulation 36 (Member dies with preserved pension) is amended as provided by paragraphs (2) to (6).

(2) In paragraph (2)—

(a) for “if the member dies” substitute “Subject to paragraph (2A), if the member dies”;

(b) omit “and, where applicable, 34(3)”.

(3) After paragraph (2) insert—

“(2A) Subject to paragraph (2B) if the member's superannuable employment ceased on or before 31st March 2008 the allowance will be calculated, as described in whichever of paragraph (4) or (5) applies, as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill-health with a pension under regulation 13 on the day the member died.

(2B) If the member has less than 5 years' superannuable service, the allowance will be calculated as if the pension described in paragraph (2A) were based on the shorter of—

(a) 10 years' superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until age 65.”.

(4) For paragraph (3) substitute—

“(3) Subject to paragraph (3A), if the member dies 12 months or more after leaving superannuable employment, the allowance will be calculated as described in whichever of paragraph (4) or (5) applies, as a proportion of the amount of the member's preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on 10 years superannuable service.

(3A) If the member's superannuable employment ceased on or before 31st March 2008, the allowance will be calculated as described in whichever of paragraph (4) or (5) applies, as a proportion of the amount of the member's preserved pension or, if greater, the amount of that the preserved pension would have been if it had been based on the shorter of—

(a) 10 years superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until age 65.”.

(5) In paragraphs (4) and (5)(a)—

(a) Paragraphs (4) and (5) were amended by S.R. 2005 No. 533

- (a) after “or civil partner” insert “or nominated partner”;
- (b) for “paragraph (2)” substitute “paragraphs (2) to (3A).”.
- (6) In paragraph (6)(a)—
 - (a) after “or civil partner” insert “or nominated partner”;
 - (b) for “or surviving civil partner’s” substitute “, surviving civil partner’s or surviving nominated partner’s”.

Amendment of regulation 38

34. In regulation 38(b) after “civil partner” (where three times occurring), insert “or nominated partner”.

Amendment of regulation 39

- 35.** For paragraph (4)(b) of regulation 39 (Allocation of pension) substitute—
- “(b) if in superannuable employment—
 - (i) in the case of a member who is not a special class officer, at any time after completing 45 years superannuable service; or
 - (ii) in the case of a member who is a special class officer, at any time after reaching age 55 and completing 40 years superannuable service, or”.

Substitution of regulation 42

36. For regulation 42 (Contracting-out conditions to be overriding) substitute—

“Contracting-out conditions to be overriding

42.—(1) The scheme will be administered in conformity with the contracting-out conditions and, with the exception of the circumstances specified in paragraph (2), regulations 43 to 48 override any inconsistent provisions of these regulations.

- (2) The circumstances referred to in paragraph (1) are—
 - (a) if a trivial pension is commuted in accordance with regulation 94; or
 - (b) if a pension is commuted in accordance with regulations 13(10), 13A(10) or 49(5); or
 - (c) if a pension is forfeited for the reasons specified in sub-paragraphs (b) or (c) of regulation 93(1).
- (3) In this Part—
 - (a) “contracting-out conditions” means the conditions specified in sections 5(2A) and 5(2B) of the 1993 Act;
 - (b) “guaranteed minimum” means the guaranteed minimum as defined in sections 9 to 13 of the 1993 Act;
 - (c) “guaranteed minimum pension” is a pension calculated in accordance with the guaranteed minimum requirements;
 - (d) “protected rights” has the same meaning as in the 1993 Act.”.

Amendment of regulation 43

37.—(1) Regulation 43 (Guaranteed minimum pensions) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (1), for “section 10 of the Pension Schemes (Northern Ireland) Act 1993 (earner’s guaranteed minimum)” substitute “section 9 of the 1993 Act”.

(3) In paragraphs (4) and (4A), for “tax year 1988-89 and subsequent tax years” substitute “tax years 1988-89 to 1996-97 inclusive”.

(a) Paragraph (6) was amended by S.R. 2005 No. 533
 (b) Regulation 38 was amended by S.R. 2005 No. 533

- (4) In paragraph (5), for “tax year 1988-89” substitute “tax years 1988-89 to 1996-97 inclusive”.
- (5) For paragraph (6) substitute—
- “(6) A member who on leaving superannuable employment—
- (a) becomes entitled to a refund of contributions under regulation 50; or
- (b) exercises a right to require a transfer or buy-out in accordance with regulation 54,
- but, in either case, remains (as described in regulation 50(3)) entitled to a guaranteed minimum pension or section 5(2B) rights, shall be entitled to the benefits specified in paragraph (7).
- (7) The benefits are—
- (a) a pension payable from the date on which the member reaches state pension age at a weekly rate equal to the member’s guaranteed minimum (if any); and
- (b) a pension and lump sum from the date the member reaches normal benefit age in respect of the member’s section 5(2B) rights.
- (8) On the death of a member to whom paragraph (6) applies, no benefit will be payable except for a widow’s, widower’s or surviving civil partner’s pension equal to the aggregate of—
- (a) that described in paragraph (3) or, as the case may be, paragraph (4); and
- (b) half the member’s pension in respect of section 5(2B) rights.”.

Amendment of regulation 49

- 38.**—(1) Regulation 49 (Preserved pension) is amended as provided by paragraphs (2) to (5).
- (2) In paragraph (2)(b)(a) after “12” insert “as if it were a pension under that regulation”.
- (3) In paragraph (3)(b)(b) after “regular employment”, insert “of like duration”.
- (4) For paragraph (4) substitute—
- “(4) Except in a case to which paragraph (4A) applies—
- (a) if the member is in HSC employment at the relevant time (whether with the same or another employing authority), the pension and lump sum on retirement will not become payable until the member leaves HSC employment or, if sooner—
- (i) when the member attains the age of 70, if he attains that age on or before 31st March 2008; or
- (ii) when the member attains the age of 75, if he attains the age of 70 on or after 1st April 2008;
- (b) the relevant time—
- (i) in the case of a member to whom sub-paragraph (d) of paragraph (3) applies, is when he makes the application referred to in head (iii) of that sub-paragraph; or
- (ii) in any other case, when the member attains the age of 60.”.
- (5) After paragraph (8) add—
- “(9) For the purposes of determining whether a member is permanently incapable of efficiently discharging the duties of the member’s employment under paragraph (3)(a), the Department shall have regard to the factors in paragraph (11) (no one of which shall be decisive) and disregard the member’s personal preferences for or against engaging in that employment.
- (10) For the purposes of determining whether a member is permanently incapable of regular employment under paragraph (3)(b), the Department shall have regard to the factors in paragraph (12) (no one of which shall be decisive) and disregard the factors in paragraph (13).
- (11) The factors to be taken into account for paragraph (9) are—
- (a) whether the member has received appropriate medical treatment in respect of the incapacity;
- (b) the member’s—

(a) Paragraph (2) was amended by S.R. 2002 No. 69

(b) Paragraph (3) was amended by S.R. 2002 No. 69

- (i) mental capacity; and
 - (ii) physical capacity;
 - (c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of the member's incapacity, irrespective of whether such rehabilitation is undergone; and
 - (d) any other matter which the Department considers appropriate.
- (12) The factors to be taken into account for paragraph (10) are—
- (a) whether the member has received appropriate medical treatment in respect of the incapacity; and
 - (b) such reasonable employment as the member would be capable of engaging in if due regard is given to the member's—
 - (i) mental capacity;
 - (ii) physical capacity;
 - (iii) previous training; and
 - (iv) previous practical, professional and vocational experience,
 irrespective of whether or not such employment is actually available to the member;
 - (c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of the member's incapacity (irrespective of whether such rehabilitation is undergone) having regard to the member's—
 - (i) mental capacity, and
 - (ii) physical capacity;
 - (d) such type and period of training which it would be reasonable for the member to undergo in respect of the member's incapacity (irrespective of whether such training is undergone) having regard to the member's—
 - (i) mental capacity,
 - (ii) physical capacity,
 - (iii) previous training, and
 - (iv) previous practical, professional and vocational experience, and
 - (e) any other matter which the Department considers appropriate.
- (13) The factors to be disregarded for paragraph (10) are—
- (a) the member's personal preference for or against engaging in any particular employment; and
 - (b) the geographical location of the member.

(14) For the purpose of this regulation—

“appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the incapacity, but does not include any treatment that the Department considers—

- (a) that it would be reasonable for the member to refuse;
- (b) would provide no benefit to restoring the member's capacity for—
 - (i) efficiently discharging the duties of the member's employment under paragraph (3)(a), or
 - (ii) regular employment of like duration under paragraph (3)(b),
 before the member reaches normal benefit age; and
- (c) that, through no fault on the part of the member, it is not possible for the member to receive before the member reaches normal benefit age;

“permanently” means the period until normal benefit age; and

“regular employment of like duration” means—

- (a) in the case of a member who was a non-GP provider, such employment as the Department considers would involve a similar level of engagement to the member's superannuable service as a non-GP provider immediately before that service ceased; and

(b) in all other cases, where prior to leaving employment that was superannuable the member was employed—

- (i) on a whole-time basis, regular employment on a whole-time basis;
- (ii) on a part-time basis, regular employment on a part-time basis,

regard being had to the number of hours, half days and sessions the member worked in that superannuable employment.”.

Amendment of regulation 50

39. For paragraph (3) of regulation 50 (Refund of contributions) substitute—

“(3) If the member’s employment was contracted-out by reference to the scheme, the member (and the member’s spouse or civil partner, if any) will remain entitled to a guaranteed minimum pension and section 5(2B) rights under the scheme, unless the Department discharges its liability in respect of that entitlement by paying a contributions equivalent premium under section 51(2) of the 1993 Act.”.

Amendment of regulation 52

40. In paragraph (3)(b) of regulation 52 (Early leavers returning to superannuable employment), for “(Early retirement pension (ill-health))” substitute “or 13A”.

Substitution of Regulations 53 to 59

41. For regulations 53 to 59 substitute—

“Member’s right to transfer or buy-out

53.—(1) A member who leaves superannuable employment with a preserved pension has the right to require the Department to transfer or buy-out his rights under the scheme as described in this regulation.

(2) Subject to the following provisions of this regulation, the member may require the Department to use the cash equivalent of his rights under the scheme—

- (a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member; or
- (b) to acquire rights under—
 - (i) another occupational pension scheme; or
 - (ii) a personal pension scheme,

that satisfies the requirements of Chapter IV of Part IV of the 1993 Act; or

- (c) to acquire rights under an arrangement that is a qualifying recognised overseas pension scheme for the purposes of section 169(2) of the 2004 Act; or
- (d) in any combination of the ways described in sub-paragraphs (a), (b) and (c).

(3) The member must exercise his right to in relation to each and every portion of the cash equivalent unless paragraph (4) applies.

(4) The benefits attributable to—

- (a) the member’s accrued rights to a guaranteed minimum pension; or
- (b) the member’s accrued rights attributable to service in contracted-out employment on or after 6th April 1997,

may be excluded from the cash equivalent transfer value payment if section 92(2) of the 1993 Act applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member’s other rights).

(5) A member who requires the cash equivalent to be used to acquire rights under another pension scheme in accordance with paragraph (2) may exercise the right—

- (a) at any time before reaching age 60; or

(b) at a later time if the member exercises the right to require a transfer on the transfer of the member's employment to a new employer as a result of a transfer of an undertaking to that employer.

(6) A member may require the Department to use the cash equivalent of the member's rights under the scheme to purchase one or more buy-out policies or to acquire rights under a personal pension scheme only—

- (a) if the member leaves superannuable employment on or after 1st January 1986; and
- (b) if those rights are to be transferred to a personal pension scheme, in relation to any period of service of 2 years or more falling before 6th April 1988, only if a period of not less than one month has elapsed between the date the member left HSC employment and the date of commencement of any further HSC employment.

(7) If a member—

- (a) leaves superannuable employment by opting-out; and
- (b) on so doing becomes entitled to a preserved pension under regulation 49; and
- (c) has at least 2 years' service before 6th April 1988,

the member's right to require a transfer or buy-out will be limited to the cash equivalent of the part of the member's rights that is attributable to service after 5th April 1988 and the member will acquire a right to the cash equivalent of the member's remaining rights only if the member actually leaves HSC employment before reaching age 60.

(8) A member who leaves superannuable employment before reaching age 60, without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 will be treated, for the purposes of this regulation and regulations 54 to 57, as if the member left superannuable employment with a preserved pension, except that—

- (a) a member who requires the cash equivalent to be used to buy one or more buy-out policies must exercise the right to buy-out within 12 months after leaving superannuable employment; and
- (b) a member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme, a personal pension scheme or a qualifying recognised overseas pension scheme must join that other scheme within 12 months after leaving superannuable employment and exercise the right to transfer within 12 months after joining that other scheme.

Exercising a right to a transfer or a buy out

54.—(1) A member who wishes to exercise the member's right to a transfer or a buy out must apply in writing to the Department for a statement of the amount of the cash equivalent of the member's accrued benefits under the Scheme at the guarantee date (a "statement of entitlement").

(2) In these Regulations, "the guarantee date" means any date that—

- (a) falls within the required period; and
- (b) is chosen by the Department; and
- (c) is specified in the statement of entitlement; and
- (d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(3) In counting the period of 10 days referred to in paragraph (2)(d), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(4) In paragraph (2) "the required period" means—

- (a) the period of 3 months beginning with the date of the member's application for a statement of entitlement; or
- (b) such longer period beginning with that date (but not exceeding six months) as may reasonably be required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(5) The member may withdraw the application for a statement of entitlement by notice in writing at any time before the statement is provided.

Amount of member's cash equivalent

55.—(1) Subject to the following provisions of this regulation, the member's guaranteed cash equivalent will be equal to the capitalised value of all the member's accrued rights to benefits under the scheme and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971, calculated and verified as required by Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993 (Transfer Values).

(2) Except in the case of a transfer payment accepted under regulation 62A, a member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 60(4), plus the amount of the member's contributions to the scheme.

(3) If a member's cash equivalent is used to acquire rights under another occupational pension scheme, any part of the cash equivalent that relates to service before 6th September 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(4) If the transfer value payment is made under the public sector transfer arrangements, the amount of the transfer value payment is calculated—

- (a) in accordance with those arrangements rather than paragraphs (2) and (3); and
- (b) by reference to the guidance and tables provided by the Scheme Actuary for the purposes of this paragraph that are in use on the date used for the calculation.

(5) In any case where the Department has directed, under regulation 93, that part of a member's benefits under these Regulations shall be forfeited, the cash equivalent payable in respect of that member shall be reduced by the capitalised value of the forfeited part of those benefits.

Applications for transfer value payments: General

56.—(1) A member who has applied for and received a statement of entitlement under regulation 54 may apply in writing to the Department for a transfer value payment to be made.

(2) On making such an application a member becomes entitled to a payment of an amount equal, or amounts equal in aggregate, to the amount specified in the statement of entitlement (or such other amount as may be payable by virtue of regulation 57(2)).

(3) In these Regulations such a payment is referred to as "the guaranteed cash equivalent transfer value payment".

(4) The application must specify the pension scheme or other arrangement to which the payment or payments should be applied.

(5) The application must meet such other conditions as the Department may require.

(6) An application under this regulation may be withdrawn by notice in writing to the Department, unless an agreement for the application of the whole or part of the guaranteed cash equivalent transfer value payment has been entered into with a third party before the notice is given.

Applications for transfer value payments: time limits

57.—(1) Subject to paragraph (5), an application under regulation 56 must be made before the end of the period of 3 months beginning with the guarantee date, and the payment must be made no later than—

- (a) 6 months after that date; or
- (b) if it is earlier, the date on which the member reaches 60.

(2) If the payment is made later than 6 months after the guarantee date, the amount of the payment to which the member is entitled must be increased by—

- (a) the amount by which the amount specified in the statement of entitlement falls short of the amount it would have been if the guarantee date had been the date on which the payment is made; or

- (b) if it is greater and there was no reasonable excuse for the delay in payment, interest on the amount specified in the statement of entitlement, calculated on a daily basis over the period from the guarantee date to the date when the payment is made at an annual rate of 1 per cent above the Bank of England base rate.
- (3) In this regulation “Bank of England base rate” means—
 - (a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, and
 - (b) if an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.
- (4) Paragraph (5) applies if—
 - (a) disciplinary or court proceedings against the member are begun within 12 months after the member leaves the employment which qualified the member to belong to the Scheme; and
 - (b) it appears to the Department that the proceedings may lead to all or part of the member’s benefits being forfeited under regulation 93.
- (5) The Department may defer doing what is needed to carry out what the member requires until the end of the period of 3 months beginning with the date on which those proceedings (including any proceedings on appeal) are concluded.
- (6) In any case where a direction is given under regulation 93 for the forfeiture of a member’s benefits, this regulation applies as if the amount specified in the statement of entitlement were reduced by an amount equal to the value of the benefits forfeited, as determined by the Scheme Actuary.
- (7) Subject to paragraph (8), if a transfer value payment is made in respect of a member’s rights under the Scheme, those rights are extinguished.
- (8) If the member’s rights described in regulation 53(4) have been excluded from the transfer payment, the Department will continue to be liable to provide the benefits described in regulation 43(7).

Special terms for transfer out (bulk transfers etc)

58.—(1) If one or more members (the transferring members)—

- (a) leave superannuable employment;
- (b) join another occupational scheme; and
- (c) exercise a right to transfer to that scheme under regulation 54,

the Department may, after taking advice from the Scheme Actuary, make a single transfer payment to that scheme in respect of transferring members.

(2) The Department must calculate the amount of any transfer payment paid under this regulation after taking advice from the Scheme Actuary.”.

Amendment of regulation 60

42. In paragraph (2)(b) of regulation 60 (Member’s right to transfer accrued rights to benefits to the scheme), after “amount of the transfer payment” insert “that relates to rights accrued in the transferring scheme before 6th April 1997”.

Omission of regulation 64

43. Regulation 64 (Waiver of transfer payment) is omitted.

Amendment of regulation 66

44. In regulation 66 (Other leave of absence), for paragraphs (1) and (2), substitute—

“(1) This regulation applies to a member who starts a leave of absence from work on, or after, 1st April 2008 for reasons other than those referred to in regulation 65.

(2) A period of absence to which this regulation applies will count as superannuable service if for a continuous period not exceeding 6 months commencing with the member’s first day of leave of absence, the member contributes to the scheme.”.

Amendment of regulation 67

45.—(1) Regulation 67 (Right to buy additional service) is amended as provided by paragraphs (2) to (6).

(2) After paragraph (1) insert—

“(1A) A member may only increase his rights to benefit by buying additional service, other than that to which paragraph (9) refers, if—

- (a) the member has given notice of the member’s intention to exercise that right in writing or in such other form as the Department agrees to accept; and
- (b) that notice is received by the member’s employing authority or the Department on or before 31st March 2008; and
- (c) the Department accepts an election to pay for additional service under regulation 69 and the member makes regular additional contributions in respect of that election from a birthday that falls between 1st April 2008 and 31st March 2009.”.

(3) For paragraph (2) substitute—

“(2) A member buying additional service to which paragraph (9) refers, may choose to pay for that additional service by—

- (a) making a single payment in accordance with regulation 70; or
- (b) making regular additional contributions in accordance with regulation 72; or
- (c) a combination of (a) and (b).

(2A) A member buying additional service other than that to which paragraph (9) refers, must pay for that additional service by making regular additional contributions in accordance with regulation 72.”.

(4) In paragraph 4(a) for “(Early retirement pension (ill-health))” substitute “or 13A”.

(5) After paragraph (5A) insert—

“(5B) For the purpose of regulation 31E, if a member who has a nominated partner exercised his right to buy additional service before 6th April 1988, the additional service bought as a result of the exercise of that right will be treated as service before 6th April 1988.”.

(6) In paragraph (11), omit the definition of “tax year”.

Amendment of regulation 68

46. In paragraph (1)(a) of regulation 68 (Right to buy an unreduced retirement lump sum) omit “or in a civil partnership”.

Amendment of regulation 70

47.—(1) Regulation 70 (Paying for additional service by single payment) is amended as provided by paragraphs (2) to (5).

(2) For paragraph (1) substitute—

“(1) A member who wishes to buy additional service for all or part of his previous superannuable service in accordance with regulation 67(9) by a single payment must elect to do so within 12 months of re-joining the scheme following the break in superannuable employment described in that regulation.”.

(a) Paragraph (1) was amended by S.R. 2005 No. 533

(3) Omit paragraph (2).

(4) For paragraph (3) substitute—

“(3) The amount of a single payment for additional service will be one-half of the cost calculated in accordance with Table 1 of Schedule 1.”

(5) Omit paragraph (7).

Amendment of regulation 71

48. After paragraph (2A) of regulation 71 (Paying for unreduced lump sum by single payment) insert—

“(2B) A member who has a nominated partner who wishes to pay for an unreduced lump sum by a single payment must elect to do so within 12 months after applying for his nominated partner to receive a dependent surviving nominated partner’s pension under regulation 31F.”

Amendment of regulation 72

49.—(1) Regulation 72 (Paying for additional service or unreduced retirement lump sum by regular additional contributions) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (6) after “scheme” insert “before 1st April 2008” and for “the Inland Revenue” substitute “HM Revenue and Customs”.

(3) After paragraph (6) insert—

“(6A) The member’s total regular additional contributions made on or after 1st April 2008 under this regulation may not exceed—

- (a) in the case of a member paying contributions of 5 per cent of his superannuable pay under regulation 10 on the member’s birthday immediately following the date of the election referred to in paragraph (3), 10 per cent of superannuable pay;
- (b) in the case of a member paying contributions of more than 5 per cent of his superannuable pay under regulation 10 on the birthday referred to in sub-paragraph (a), 9 per cent of superannuable pay, or
- (c) in any case referred to in sub-paragraph (a) or (b), any other limit specified for the time being by HM Revenue and Customs.”

Amendment of regulation 73

50.—(1) Regulation 73 (Part payment for additional service or unreduced retirement lump sum) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (2), for “(Early retirement pension (ill-health))” substitute “or 13A”.

(3) In paragraph (3), after “13”, insert “or 13A”.

Insertion of new regulations 73A to 73J

51. After regulation 73 (Part payment for additional service or unreduced retirement lump sum) insert—

“Option to pay additional periodical contributions to purchase additional pension

73A.—(1) A member who is in superannuable employment may opt to make additional periodical contributions during the contribution option period to increase by a specified amount—

- (a) the benefits payable to the member under Parts III, V and X (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or
- (b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.

(2) A member may exercise the option under paragraph (1) more than once.

(3) If a member exercises an option under paragraph (1), the member's employing authority must—

- (a) deduct the member's contributions from the member's earnings; and
- (b) pay them to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be—

- (a) an amount less than the minimum amount; or
- (b) an amount other than a multiple of the minimum amount.

(5) In paragraph (4) "the minimum amount" means the amount that would, in accordance with tables prepared for the Department by the Scheme Actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member's pension of—

- (a) £250; or
- (b) such other amount as the Department may for the time being determine assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)—

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year,

but no such amendment affects the contributions payable under any option during that year, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 73C; or
- (b) contributions made under regulation 73D,

may not exceed £5000 or such other amount as the Department may for the time being determine.

(8) In these Regulations "the contribution option period", in relation to an option under this regulation, means a period of whole years, that—

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than 1 year nor more than 20 years; and
- (d) does not end later than the member's chosen birthday as specified in the option.

(9) For the purposes of this Part, a member's "chosen birthday" must be either his 60th or 65th birthday.

Effect of member being absent or leaving and rejoining the Scheme during the contribution option period

73B.—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 73A—

- (a) is absent from work for any of the reasons described in regulation 65(2); or
- (b) is on a leave of absence in accordance with regulation 66.

(2) If paragraph (1) applies—

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 10; and
- (b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 10 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

- (3) This paragraph applies if a member—
 - (a) exercises the option under regulation 73A;
 - (b) leaves superannuable employment during the contribution option period; and
 - (c) returns to superannuable employment within 12 months of leaving.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after returning to superannuable employment unless a refund of contributions has been made to the member under regulation 50.

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions to the Department in accordance with regulation 52(5) (Early leavers returning to superannuable employment).

Members option to pay lump sum contributions to purchase additional pension

73C.—(1) A member who is in superannuable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under Parts III, V and X; (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or
- (b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.

(2) A member may only make a contribution under this regulation of an amount—

- (a) that is not less than the minimum amount; or
- (b) a multiple of that amount.

(3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Department by the Scheme Actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member’s pension of—

- (a) £250; or
- (b) such other amount as the Department may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1) the additional contribution is payable by the member to the employing authority—

- (a) by deduction from the member’s earnings or otherwise; and
- (b) before the end of the period of 1 month beginning with the day on which the member is notified by the Department that the option is accepted; and
- (c) the employing authority must pay the additional contribution to the Department not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(6) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 73A; or
- (b) contributions made under regulation 73D,

may not exceed £5000 or such other amount as the Department may for the time being determine.

Payment of additional lump sum contributions by employing authority

73D.—(1) The employing authority of a member who is in superannuable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under Parts III, V and X (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or

- (b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.
- (2) An employing authority may only make a contribution under this regulation of an amount—
 - (a) that is not less than the minimum amount (as defined in regulation 73C(3)); or
 - (b) a multiple of that amount.
- (3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.
- (4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—
 - (a) contributions made under regulation 73A; or
 - (b) contributions made under regulation 73C,
 may not exceed £5000 or such other amount as the Department may for the time being determine.
- (5) A contribution under this regulation must be paid by the employing authority to the Department within one month of the date on which the authority gave the Department notice under regulation 73E(2).

Exercise of options under regulations 73A, 73C and 73D

- 73E.**—(1) A member exercising an option under regulation 73A or 73C must do so by giving notice in writing to the employing authority, giving such information as may be required.
- (2) An employing authority exercising an option under regulation 73D must do so by giving notice in writing to the Department, giving such information as may be required.
 - (3) An option under regulation 73A, 73C or 73D may not be exercised during a period whilst the member is absent from work for any reason.
 - (4) For the purposes of these Regulations—
 - (a) a member is treated as exercising an option under regulation 73A or 73C on the date on which the employing authority receives the member's notice under paragraph (1); and
 - (b) an employing authority is treated as exercising an option under regulation 73D on the date on which the Department receives the authority's notice under paragraph (2).
 - (5) The Department—
 - (a) must refuse to accept an option exercised under—
 - (i) regulation 73A if not satisfied that that the member is in good health and there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period;
 - (ii) regulation 73C or 73D if not satisfied that the member is in good health,
 - (b) may refuse to accept an option under regulation 73A, 73C or 73D in any other circumstances.
 - (6) If the Department refuses to accept such an option, the Department must give notice in writing of that fact—
 - (a) in the case of an option exercised under regulation 73A or 73C, to the member; and
 - (b) in the case of an option exercised under regulation 73D, to the employing authority and the member.
 - (7) These Regulations apply as if an option—
 - (a) under regulation 73A, 73C or 73D had not been exercised if the Department refuses to accept the option;
 - (b) under regulation 73C had not been exercised if the payment is not received by the employing authority—
 - (i) before the end of the period of 1 month beginning with the day on which the Department notifies the member of the acceptance of the option; or
 - (ii) if it is earlier, on or before the member's chosen birthday, and

- (c) under regulation 73D had not been exercised if the payment is not received by the Department on or before the member's chosen birthday.

Cancellation and cessation of options under regulation 73A

73F.—(1) A member may cancel an option under regulation 73A(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Department that the requirement in regulation 73A(7) will not be met if the member continues to make periodical contributions under an option exercised under regulation 73A, the Department may cancel the option by giving the member notice in writing.

(4) If the Department cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

Effect of payment of additional contributions under this Part

73G.—(1) This regulation applies if—

- (a) an option is exercised by a member under regulation 73A and all the contributions to be made under the option are made;
- (b) an option is exercised by a member under regulation 73C or by a member's employing authority under regulation 73D and the lump sum payment is made.

(2) Subject to paragraph (7), the member's pension is increased by the full amount of the increase to be made in accordance with the terms of the option after the final adjustment in that amount in accordance with regulation 73J.

(3) Paragraph (2) is without prejudice to any reduction falling to be made in accordance with regulation 73H(5) as a result of the member becoming entitled to payment of a pension before his chosen birthday.

(4) In the case of an option under regulation 73A(1)(b), 73C(1)(b) or 73D(1)(b), any benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations is increased by the appropriate amount.

(5) In paragraph (4) subject to regulations 73H and 73I(3) "the appropriate amount" means—

- (a) in the case of a surviving partner pension payable under regulation 24, 26 or 87A(10), 37.5 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
- (b) in the case of a surviving partner pension payable under regulation 25, 37.5 per cent of the amount of the increase in the member's pension as a result of the option;
- (c) in the case of a child allowance payable under regulation 34, 36 or 87A(17)(b), the appropriate fraction of 75 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
- (d) in the case of a child allowance payable under regulation 35, the appropriate fraction of 75 per cent of the amount of the increase in the member's pension as a result of the option.

(6) For the purposes of paragraph (5) the "appropriate fraction" means the same fraction as that applied to the member's pension in order to calculate the amount of child allowance payable in respect of that member.

(7) Paragraph (8) applies only to an option under 73A(1)(a), 73C(1)(a) or 73D(1)(a) where a pension is to be paid for either three or six months at the same rate as the member's pension was being paid at the date of that member's death.

(8) Any increase in a member's pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (7).

Effect of death or early payment of pension after option exercised under regulation 73A, 73C or 73D

73H.—(1) If a member in respect of whom an option under regulation 73A, 73C and 73D has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation 73G(4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 73A or 73C, to the member's personal representatives; and
 - (ii) in the case of an option under regulation 73D, to the employing authority which made the contribution.

(2) If a member in respect of whom an option under regulation 73A has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 73G(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 73A, 73C or 73D has been exercised becomes entitled to a pension under regulation 13A as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation 73G(2) and (4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 73A or 73C, to the member, and
 - (ii) in the case of an option under regulation 73D, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation 73A has been exercised becomes entitled to a pension under regulation 13A before the end of the contribution period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 73G(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 73A, 73C or 73D has been exercised—

- (a) becomes entitled to a pension under regulation 14, 14A, or 16; or
- (b) becomes entitled to a pension under regulation 12 or 49 before reaching the age of 60; or
- (c) becomes entitled to a pension under regulation 12 after age 60 but before his chosen birthday

the increase in the member's pension which would otherwise be due under regulation 73G(2) or regulation 73I is reduced.

(6) The amount of the reduction is such amount as the Department determines, after consulting the Scheme Actuary, to be appropriate by reason of the payment of the increase before the member reaches his chosen birthday.

Effect of part payment of periodical contributions

73I.—(1) This regulation applies if—

- (a) the full number and amount of contributions due under an option under regulation 73A for the whole contribution option period are not made; and
- (b) paragraphs (1) to (4) of regulation 73H do not apply.

(2) The increase in the member's pension is—

- (a) the appropriate proportion of the increase that would have been made under regulation 73G(2) if the full number and amount of contributions had been made; or

- (b) the appropriate proportion of the increase calculated in accordance with sub-paragraph (a) reduced in accordance with regulation 73H(5) if that regulation applies to the member.
- (3) In the case of an option under regulation 73A(1)(b), 73C(1)(b) or 73D(1)(b), the increase in any surviving partner or child allowance payable under Parts III and X in respect of the member is—
 - (a) the appropriate proportion of the increase that would have been made under regulation 73G(4) if the full number and amount of contributions had been made; or
 - (b) the appropriate proportion of the increase calculated in accordance with sub-paragraph (a) reduced in accordance with regulation 73H(5) if that regulation applies to the member.
- (4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the Scheme Actuary may determine and specify in guidance given to the Department.
- (5) In making a determination under paragraph (4), the Scheme Actuary must have regard to—
 - (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 73A for the whole contribution option period; and
 - (b) the preservation requirement.

Revaluation of increases bought under options: members’ pensions

73J.—(1) This regulation applies for the purposes of determining the final amount of the increase in a member’s pension as a result of the exercise of an option under regulation 73A, 73C or 73D.

(2) The amount of that increase immediately before the beginning date for that pension is found as set out in paragraph (3).

(3) Step 1

Calculate the amount of the increase in accordance with regulations 73G to 73I immediately before that date (“the basic amount”).

Step 2

Multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it to find the Step 2 amount.

Step 3

Divide the Step 2 amount by the retail prices index for the month in which the option was exercised to find the Step 3 amount.

Step 4

Add to the Step 3 amount any amount by which the Step 3 amount would be increased under the Pensions (Increase) Act (Northern Ireland) 1971 if it were the amount of the member’s pension to find the Step 4 amount.

Step 5

Divide the Step 4 amount by the Step 3 amount to find the Step 5 factor.

Step 6

Divide the Step 3 amount by the Step 5 factor to find the adjusted basic amount.

(5) The amount of the increase in a member’s pension as a result of the exercise of an option under regulation 73A, 73C or 73D as at the beginning date for that pension is—

- (a) if the adjusted basic amount is greater than the basic amount, the adjusted basic amount; and
- (b) otherwise the basic amount.

(6) In this regulation “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971 (see section 8(2) of that Act).”.

Amendment of regulation 76

52. In paragraph (7) of regulation 76 (Mental health officers)—

- (a) in sub-paragraph (a) for “(Early retirement pension (ill-health))” substitute “or 13A” ;
- (b) in sub-paragraph (b) for “or surviving civil partner’s” substitute “, surviving civil partners or surviving nominated partner’s”.

Amendment of regulation 77

53. In paragraph (5) of regulation 77 (Members doing more than one job), for “70” substitute “75”.

Amendment of regulation 78

54. For paragraph (6) of regulation 78 (Part-time employment) substitute—

“(6) If a member with superannuable service in part-time employment becomes entitled to a pension under regulation 13, 13A, 14 or 14A (ill health pensions, pensions on redundancy and early retirement pensions)—

- (a) the member’s superannuable service in part-time employment will count at its full length for the purpose of calculating—
 - (i) whether and (if so) to what extent, the superannuable service upon which the pension under regulation 13 or 13A is based should be increased under that regulation; or
 - (ii) the qualifying service for the purposes of regulation 14(2)(a) or regulation 14A(2)(a),
- (b) the pension will be based on the whole-time equivalent of the period of part-time employment and, in the case of a pension under regulation 13 or 13A, the increase under that regulation will be limited to such amount as bears the same proportion to the amount that would have been paid had the superannuable service not been part-time as the whole-time equivalent bears to comparable whole-time employment.”.

Amendment of regulation 82

55.—(1) Regulation 82 (Members whose earnings are reduced) is amended as provided by paragraphs (2) to (6).

(2) For paragraphs (1) and (2) substitute—

“(1) The Department may agree to pay a preserved pension under regulation 49 in respect of a member’s superannuable service before his earnings were reduced if—

- (a) the member has at least two years qualifying service; and
- (b) within the three month period after the member’s earnings are reduced that the member’s employer certifies that the reduction is due to the circumstances described in paragraph (2); or
- (c) the member satisfies all of the conditions specified in paragraph (2A).

(2) The circumstances referred in paragraph (1)(b) are that the reduction is due to—

- (a) the member being transferred to other employment with an employing authority; or
- (b) the member taking up other employment with an employing authority, in circumstances approved by the Department; or
- (c) a change in the member’s duties, while continuing in the same employment, otherwise than at the member’s request or as a result of something done by the member.

(2A) The conditions referred to in paragraph (1)(c) are that—

- (a) the member has attained normal minimum pension age or, where relevant, protected pension age;
- (b) the member makes an election and the Department has not previously accepted an election made by that member, and
- (c) the member’s employer has certified that—

- (i) the member's superannuable pay is reduced by at least 10 per cent for a period of at least one year beginning with the first pay day on which the reduced superannuable pay was paid;
 - (ii) for a period of at least 12 months ending immediately before the reduction referred to in head (i), the member's superannuable pay had not been subject to any other reduction;
 - (iii) the reduction to the member's superannuable pay is the result of a change to that member's duties so that his new, or remaining, duties are less demanding and carry less responsibility than the member's previous duties.".
- (3) For paragraph (4), substitute—
- “(4) An election referred to in paragraph (2A) must be made—
- (a) in writing and addressed to the Department; and
 - (b) within 15 months of the member's superannuable pay being reduced.”.

(4) In paragraph (5) for “exercising the option described in this regulation”, substitute “the Department agrees to pay a preserved pension under regulation 49 in accordance with paragraph (1)”.

(5) In paragraph (6)(b) after “(Early retirement pension (ill-health))”, insert “or 13A”.

(6) For paragraph (7), substitute—

“(7) If the member leaves superannuable employment with a pension under regulation 13 or 13A and the member's superannuable service falls to be increased as described in—

 - (a) paragraphs (4) to (6) of regulation 13; or
 - (b) paragraphs (4) to (6) of regulation 13A,

then, if the member's superannuable service before and after the break is treated separately under paragraph (5), the increase will apply only in respect of benefits attributable to the period after the member's earnings were reduced.

(8) For the purposes of this regulation, “superannuable pay” in respect of part-time employment means the amount that the Department determines would have been paid in respect of a single comparable whole-time employment.”.

Amendment of regulation 84

56. For paragraph (4) of regulation 84 (Suspension of pension on return to HPSS employment) substitute—

- “(4) The pension referred to in paragraph (1) shall again become payable if the member either ceases to be in any HSC employment (or reduces the number of hours worked to 16 or less) for a period of one month or, if sooner—
- (a) from the date of his 70th birthday if the pension referred to in paragraph (1) becomes payable on or before 31st March 2008; or
 - (b) from the date of his 75th birthday if the pension referred to in paragraph (1) becomes payable on or after 1st April 2008.”.

Amendment of regulation 85

57.—(1) Regulation 85 (Reduction of pension on return to HPSS employment) is amended as provided by paragraphs (2) to (5).

(2) For paragraphs (1) and (1A), substitute—

- “(1) Subject to paragraph (15), this regulation applies to a member—
- (a) until he attains the age of 60; and
 - (b) who is in receipt of a relevant pension; and
 - (c) who continues in, or subsequently returns to, HSC employment.

(1A) A relevant pension for the purpose of this regulation is a pension payable,—

- (a) in respect of superannuable employment that ceased before 1st April 2008,—

- (i) under any or regulations 13 to 14C (pensions on ill health retirement and redundancy), or
 - (ii) in accordance with regulation 49(2)(b) (Preserved pension); or
 - (b) in respect of superannuable employment that ceased on or after 1st April 2008,—
 - (i) any of regulations 13 to 14, or
 - (ii) in accordance with regulation 14A(2)(d)(ii) (Early retirement pension (termination of employment by employing authority)), or
 - (iii) except where paragraph (c) applies, in accordance with regulation 49(2)(b); or
 - (c) where the member is a special class officer—
 - (i) regulation 12 (Normal retirement pension), or
 - (ii) if regulation 75(3)(b) (Nurses, physiotherapists, midwives and health visitors) applies to the member, in accordance with regulation 49(2)(b).”.
- (3) For paragraph (3) substitute—
- “(3) If the relevant pension is one referred to in paragraph (1A)(a) or (c)—
- (a) the member’s pension will be reduced by the appropriate amount;
 - (b) the appropriate amount is the difference between the member’s previous pay and the aggregate of—
 - (i) the amount of the member’s pension (including in that amount any amount by which that pension has been reduced pursuant to an election under regulation 17A), and
 - (ii) the amount of the member’s pay from HSC employment for any financial year after the pension becomes payable.
- (3A) If the relevant pension is one referred to in paragraph (1A)(b), the member’s pension will be reduced in accordance with paragraphs (3B) to (3D) if Amount A exceeds the member’s previous pay.
- (3B) The reduction in that member’s pension shall be equal to the difference between Amount A and the member’s previous pay, but shall not exceed Amount B.
- (3C) For the purposes of paragraphs (3A) and (3B), Amount A is the aggregate of—
- (a) the amount of the member’s pay from HSC employment for any financial year after the pension becomes payable; and
 - (b) Amount B.
- (3D) For the purposes of paragraphs (3B) and (3C), Amount B is the difference between—
- (a) the amount of the member’s pension (including in that amount any amount by which that pension has been reduced pursuant to an election under regulation 17A); and
 - (b) the amount of an actuarially reduced pension.”.
- (4) In paragraph (14), in the appropriate place in alphabetical order insert—
- ““actuarially reduced pension” means such annual amount as the Department determines, after consulting the Scheme Actuary, to be the amount that would have been payable to the member (regardless of whether the member has reached normal minimum pension age or protected minimum pension age) if the member had become entitled to a pension—
- (a) calculated in accordance with regulation 16 (Early retirement pension (with actuarial reduction)) at the time he became entitled to a pension mentioned in paragraph (1A)(b), plus
 - (b) any increases to that amount payable under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 for that period;”.
- (5) For paragraph (15), substitute—
- “(15) This regulation does not apply to—
- (a) practice staff in respect of whom a pension is payable under any of regulations 12 to 16 and 49 who were employed by a registered medical practitioner on both 31st August 1997 and 1st September 1997 and who—
 - (i) were ineligible to rejoin the scheme with effect from 1st September 1997; or

- (ii) made an election not to rejoin the scheme with effect from that date and who have not cancelled that election; and
- (b) members who are transferred into HSC employment as a result of a transfer of an undertaking to the employer.”.

Insertion of new regulation 86A

58. After regulation 86 (Benefits in respect of superannuable employment after pension becomes payable) insert—

“Benefits in respect of superannuable employment after pension becomes payable under regulation 13A

86A.—(1) This regulation applies to a member in respect of whom a pension is payable under regulation 13A and who subsequently returns to superannuable employment.

- (2) For the purposes of this regulation—
 - (a) the member’s “previous service” means the superannuable service in respect of which the member became entitled to receive a pension under regulation 13A; and
 - (b) the member’s “later service” means any superannuable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member’s benefits in respect of later service shall be calculated without regard to the member’s previous service.

(4) For the purposes of regulation 4 (Meaning of superannuable service) and regulation 10(3) and (4) (Contributions by members), the member’s previous service and later service shall be aggregated.

- (5) Subject to the following provisions of this regulation, a member who—
 - (a) is entitled to a tier 1 pension in respect of his previous service; and
 - (b) satisfies the tier 1 condition or, as the case may be, the tier 2 condition in respect of the member’s later service,

shall be entitled to the following benefits.

- (6) Those benefits are—
 - (a) the member’s original tier 1 pension in respect of the member’s previous service; and
 - (b) a tier 1 pension or, as the case may be, a tier 2 pension in respect of the member’s later service.”.

Amendment of heading to regulation 87

59. In the heading to regulation 87 (Benefits on death in superannuable employment after pension becomes payable), after “pension” insert “under regulation 13”.

Amendment of regulation 87

60. In regulation 87, for paragraphs (4) to (9) substitute—

- “(4) If a member to whom this regulation applies leaves a surviving—
- (a) spouse or civil partner; or
 - (b) nominated partner (if the member became entitled to the pension referred to in paragraph (1) on or after 1st April 2008),

the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (5) and (7).

(5) Subject to paragraph (9), the amount payable in respect of the member’s previous service shall be equal to the amount of the member’s pension (if any) that was payable when the member died.

- (6) The amount referred to in paragraph (5) shall be paid for—
 - (a) the 3 months immediately following the member’s death; or

(b) the 6 months immediately following the member's death if he leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(7) The amount payable in respect of the member's later service shall be equal to the rate of the member's superannuable pay when the member died.

(8) The amount referred to in paragraph (7) shall be paid for the 6 months immediately following the member's death.

(9) Paragraph (5) shall not apply if the aggregate of the spouse's or civil partner's pension and any child allowance which would otherwise be payable under these Regulations in respect of the member's previous service is greater.

(10) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in paragraph (6), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's previous service shall be the amount determined in accordance with regulation 25.

(11) Upon expiry of the 6 month period referred to in paragraph (8), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's later service shall be equal to one-half of the rate of pension mentioned in paragraph (3A) that would have been payable to the member.

(12) If a member to whom this regulation applies leaves a dependent child but—

(a) does not leave a surviving spouse or civil partner; and

(b) a nominated partner pension is not payable in respect of his later service,

the child allowance, for the 6 months immediately following the member's death, shall be equal to the aggregate of the member's rate of superannuable pay when he died and the amount of the member's pension (if any) that the member was receiving at that time.

(13) Subject to paragraph (14), except where a child allowance is payable at the rate mentioned in paragraph (12), the child allowance in respect of the member's later service shall—

(a) be paid as a proportion of the rate of pension mentioned in paragraph (3A) that would have been payable to the member; and

(b) such proportion shall be determined in accordance with the circumstances as described in regulation 34 (Member dies in superannuable employment).

(14) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member's previous service was terminated and when the member died, any child allowance payable under these Regulations shall be calculated according to—

(a) regulation 35 (Member dies after pension becomes payable) in respect of the pension already in payment; and

(b) regulation 34 in respect of later superannuable employment.

(15) If the aggregate of the superannuable service used in the calculation referred to in paragraph (14)(a) and that used in the calculation referred to in paragraph (14)(b) ("the member's aggregated service") is less than 10 years, additional service will be allocated to the later period of superannuable employment for the purpose of the calculation under regulation 34.

(16) The amount of additional service referred to in paragraph (15) is the difference between 10 years superannuable service and the member's aggregated service."

Insertion of new regulation 87A

61. After regulation 87 insert—

"Benefits on death in superannuable employment after pension under regulation 13A becomes payable

87A.—(1) This regulation applies to a member in respect of whom a pension is payable under regulation 13A who—

(a) returns to superannuable employment after that pension becomes payable; and

(b) dies in superannuable employment.

(2) For the purposes of this regulation, the member's "previous service" means the superannuable service in respect of which the member became entitled to receive a pension under regulation 13A (Ill health pension on early retirement) and the member's "later service" means any superannuable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member's benefits in respect of later service shall be calculated without regard to the member's previous service.

(4) For the purposes of regulation 4 (Meaning of superannuable service) and regulation 10(3) and (4) (Contributions by members), the member's previous service and later service shall be aggregated.

(5) If this regulation applies, a lump sum payable on the member's death shall be payable in addition to any lump sum payable under regulation 19 (Member dies after pension becomes payable).

(6) The additional lump sum referred to in paragraph (5) shall be equal to 5 times the amount of the pension that would have been payable to the member had he left HSC employment and been entitled to a tier 2 pension based on the member's later service under regulation 13A on the date of the member's death.

(7) If a member to whom this regulation applies leaves a surviving spouse, civil partner or nominated partner, the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (8) and (10).

(8) Subject to paragraph (12), the amount payable in respect of the member's previous service shall be equal to the amount of the member's pension (if any) that was payable when the member died.

(9) The amount referred to in paragraph (8) shall be paid for—

(a) the 3 months immediately following the member's death; or

(b) the 6 months immediately following the member's death if the member leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(10) The amount payable in respect of the member's later service shall be equal to the member's rate of superannuable pay when the member died.

(11) The amount referred to in paragraph (10) shall be paid for the 6 months immediately following the member's death.

(12) Paragraph (8) shall not apply if the aggregate of the spouse's, civil partner's or nominated partner's pension and any child allowance which would otherwise be payable under these Regulations in respect of the member's previous service is greater.

(13) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in paragraph (9), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's previous service shall be the amount determined in accordance with regulation 25 (Member dies after pension becomes payable).

(14) Upon expiry of the 6 month period referred to in paragraph (11), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's later service shall be equal to one-half of the rate of pension that would have been payable to the member had the member become entitled to the pension mentioned in paragraph (6).

(15) If a member to whom this regulation applies leaves a dependent child but does not leave a surviving spouse, civil partner, or nominated partner, the child allowance, for the 6 months immediately following the member's death, shall be equal to the aggregate of—

(a) the member's rate of superannuable pay when the member died; and

(b) the amount of the member's pension (if any) that the member was receiving at that time.

(16) Subject to paragraph (17), except where a child allowance is payable at the rate mentioned in paragraph (15), the child allowance in respect of the member's later service shall—

(a) be paid as a proportion of the rate of pension that would have been payable to the member had he become entitled to the pension mentioned in paragraph (6); and

(b) such proportion shall be determined in accordance with the circumstances as described in regulation 34 (Member dies in superannuable employment).

(17) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member's previous service was terminated and when the member died, any child allowance payable under these Regulations shall be calculated according to—

- (a) regulation 35 (Member dies after pension becomes payable) in respect of the pension already in payment; and
- (b) regulation 34 in respect of later superannuable employment.

(18) If the aggregate of the superannuable service used in the calculation referred to in paragraph (17)(a) and that used in the calculation referred to in paragraph (17)(b) ("the member's aggregated service") is less than 10 years, additional service will be allocated to the later period of superannuable employment for the purpose of the calculation under regulation 34.

(19) The amount of additional service referred to in paragraph (18) is the difference between 10 years superannuable service and the member's aggregated service."

Amendment of regulation 89A

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

- (2) In paragraph (2) for "Where" substitute "Subject to paragraph (2A), if".
- (3) After paragraph (2) insert—

"(2A) The member's present or future benefits in respect of which any charge under paragraph (2) arises shall be reduced by an amount that fully reflects the amount of tax paid by the Department and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose."

Amendment of Schedule 2

63.—(1) Schedule 2 is amended by paragraphs (2) to (13).

- (2) In paragraph 2A (Membership: locum practitioners)—
 - (a) sub-paragraph (4) is omitted;
 - (b) in sub-paragraph (5), for "Except where sub-paragraph (4) applies, no" substitute "No".
- (3) In paragraph 8 (Limit on superannuable earnings—dental practitioners), in sub-paragraph (2), after "1995" insert "and ending before 1st April 2008".
- (4) In paragraph 9(a) (Officer service treated as practitioner service), in sub-paragraph (5), after "(Early retirement pension (ill-health))" insert "or 13A".
- (5) For paragraph 10(2) (Contributions to the scheme) substitute—

"(2) The contribution rate for practitioners and non-GP providers is as set out in the following tables.

2007-2008

<i>Column 1</i> <i>Amount of superannuable earnings</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £19,682	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

(a) Paragraph (9) was amended by S.R. 2005 No. 155

2006-2007

<i>Column 1</i> <i>Amount of superannuable earnings</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £19,165	5%
£19,166 to £63,416	6.5%
£63,417 to £99,999	7.5%
£100,000 to any higher amount	8.5%

2005-2006

<i>Column 1</i> <i>Amount of superannuable earnings</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £18,697	5%
£18,698 to £61,869	6.5%
£61,870 to £97,560	7.5%
£97,561 to any higher amount	8.5%

(2A) The Department may make a determination substituting any or all of the amounts of superannuable earnings or contribution rates specified in the tables in sub-paragraph (2) with effect from the date specified in the determination, and before making a determination the Department must consider—

- (a) the advice of the Scheme Actuary, and
- (b) advice from such employee and employer representatives as the Department considers appropriate.

(2B) If, apart from this paragraph, the earnings for a scheme year in respect of a member's Practitioner or non-GP provider service would not be a whole number of pounds, those earnings will be rounded down to the nearest whole pound.

(2C) If, in the 2008-2009 scheme year a member is in practitioner and non-GP provider service as well as (concurrently) employment other than as a practitioner in respect of which he is liable to pay contributions in accordance with regulation 10, the contributions payable in respect of the member's—

- (a) practitioner or non-GP provider service, shall be determined in accordance with the provisions of these Regulations that apply to a practitioner or non-GP provider, and
- (b) employment as an officer, shall be determined in accordance with the provisions of these Regulations that apply to an officer.

(2D) For the purposes of this paragraph, "zero hours contract" means superannuable employment as an officer in respect of a contract under which—

- (a) an employing authority does not guarantee to provide work for the member;
- (b) there are no specified working hours or working patterns;
- (c) the member is paid only for work actually done under it.

(2E) Sub-paragraphs (2F) to (2O) apply to practitioners (other than a dentist performer) and non-GP providers.

(2F) If the practitioner or non-GP provider—

- (a) was in superannuable employment throughout the 2007-2008 scheme year or began such employment during that year; and
- (b) was in such employment on 1st April 2008,

sub-paragraphs (2G) to (2I) apply.

(2G) If the practitioner or non-GP provider—

- (a) was engaged in superannuable employment as a practitioner or non-GP provider throughout the whole of the 2006-2007 scheme year; and

- (b) has, in accordance with paragraph 23, certified the member's superannuable earnings for the 2006-2007 scheme year and forwarded a record of those earnings to the host Health and Social Services Board, or is not required to certify earnings in accordance with that paragraph but the host Health and Social Services Board has the member's final superannuable earnings figure,

the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 2 in respect of the amount of superannuable earnings referred to in column 1 of that Table which correspond to the certified or final earnings for the aggregated total of all practitioner or provider sources for the 2006-2007 scheme year.

(2H) If (2G) does not apply and a practitioner or non-GP provider—

- (a) was engaged in superannuable employment as practitioner or non-GP provider throughout the whole of the 2005-2006 scheme year; and
- (b) has, in accordance with paragraph 23, certified the member's superannuable earnings for the 2005-2006 scheme year and forwarded a record of those earnings to the host Health and Social Services Board, or is not required to certify earnings in accordance with that paragraph but the host Health and Social Services Board has the member's final superannuable earnings figure,

the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 3 in respect of the amount of superannuable earnings referred to in column 1 of that Table which correspond to the certified or final earnings for the aggregated total of all practitioner or provider sources for the 2005-2006 scheme year.

(2I) If paragraphs (2G) or (2H) do not apply—

- (a) that practitioner's or, as the case may be, the non-GP provider's superannuable earnings in respect of the 2008-2009 scheme year shall be the amount agreed between the host Health and Social Services Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner's or non-GP provider's earnings from all practitioner or provider sources for that year, and
- (b) contributions payable for that year shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2J) If the practitioner or non-GP provider commences superannuable employment for the first time (having no earlier practitioner or non-GP provider service) at any time during the 2008-2009 scheme year—

- (a) that practitioner's or, as the case may be, the non-GP provider's superannuable earnings for that scheme year shall be the amount agreed between the host Health and Social Services Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner's or non-GP provider's earnings from all practitioner or provider sources for that year, and
- (b) contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2K) If a practitioner or non-GP provider—

- (a) commences further superannuable employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year ("the later employment");
- (b) has existing or previous employment during that scheme year as a practitioner or as a non-GP provider in respect of which he is, or was, liable to pay contributions in accordance with this paragraph ("the earlier employment"), and
- (c) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in HSC employment other than as a practitioner during the 2008-2009 scheme year,

that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2L) If a practitioner or non-GP provider—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year ("the later employment");

- (b) has previous employment during that scheme year in respect of which he was liable to pay contributions to the scheme as a dentist performer in accordance with this paragraph (“the earlier employment”); and
- (c) has ceased the earlier employment prior to commencing the later employment, and
- (d) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in HSC employment other than as a practitioner during the 2008-2009 scheme year,

that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate determined in accordance with paragraph (2J).

(2M) If a practitioner or non-GP provider—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has no previous practitioner or non-GP provider employment in that scheme year;
- (c) has previous employment as an officer on a whole-time or part-time basis employment during that scheme year (excluding any employment under a zero hours contract) in respect of which he was liable to pay contributions to the scheme in accordance with regulation 10 (“the earlier employment”), and
- (d) has ceased the earlier employments prior to commencing the later employment,

that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2N) Where sub-paragraph (2M) applies and the practitioner or non-GP provider had two or more earlier officer employments, that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to whichever of the earlier officer employments was the last to cease.

(2O) Where sub-paragraph (2N) applies and all of earlier officer employments or the last two of them cease on the same day—

- (a) that practitioner’s or non-GP provider’s superannuable earnings in respect of the later employment referred to in paragraph (2M)(a) shall be the amount agreed between the host Health and Social Services Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner’s or provider’s superannuable earnings from all practitioner or provider sources for that year, and
- (b) contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2P) If a dentist performer—

- (a) was in superannuable employment as a dentist performer throughout the 2007-2008 scheme year or began such employment during that year, and
- (b) was in such employment on 1st April 2008,

sub-paragraphs (2Q) or (2R) apply.

(2Q) If a dentist performer was in superannuable employment as a dentist performer during any part of the 2006-2007 scheme year—

- (a) that performer’s superannuable earnings shall be determined by applying the formula—

$$\frac{SER}{NDSE} \times 365$$

where—

SER is the total of all dentist performer superannuable earnings received during that part of the scheme year referred to in sub-paragraph (a);

NDSE is the number of days of superannuable employment, and

- (b) the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 2 in respect of the amount of superannuable earnings referred to in

column 1 of that Table corresponding to the practitioner's superannuable earnings for the 2006-2007 scheme year calculated in accordance with paragraph (a).

(2R) If (2Q) does not apply and the dentist performer was engaged in superannuable service as a dentist performer during any part of the 2007-2008 scheme year—

(a) that performer's superannuable earnings shall be determined by applying the formula—

$$\frac{SER}{NDSE} \times 365$$

where—

SER is the total of all dentist performer superannuable earnings received during that part of the scheme year referred to in paragraph (2R)(a);

NDSE is the number of days of superannuable employment, and

(b) the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table which correspond to the performer's superannuable earnings for the 2007-2008 scheme year calculated in accordance with sub-paragraph (a).

(2S) If a dental performer commences superannuable employment for the first time (having no earlier dentist performer employment) at any time during the 2008-2009 scheme year—

(a) that performer's superannuable earnings shall be determined by applying the formula—

$$\frac{ESE}{NDSE} \times 365$$

where—

ESE is an estimate of the practitioner's superannuable earnings from all sources for the days of superannuable employment in the 2008-2009 scheme year; and

NDSE is the number of days of superannuable employment, and

(b) contributions payable shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table corresponding to the practitioner's superannuable earnings for the 2008-2009 scheme year calculated in accordance with this sub-paragraph.

(2T) If a dentist performer—

(a) commences further superannuable employment as a dentist performer at any time during the 2008-2009 scheme year ("the later employment"); and

(b) has existing or previous superannuable employment during that scheme year as a dentist performer in respect of which he is, or was, liable to pay contributions in accordance with this paragraph ("the earlier employment"),

that dentist performer shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2U) If a dentist performer—

(a) commences employment as a dentist performer at any time during the 2008-2009 scheme year ("the later employment");

(b) has previous employment during that scheme year in respect of which he was liable to pay contributions to the scheme as a practitioner (other than a dentist performer) or a non-GP provider in accordance with this paragraph ("the earlier employment");

(c) has ceased the earlier employment prior to commencing the later employment, and

(d) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in HSC employment other than as a practitioner during the 2008-2009 scheme year,

that dentist performer shall pay contributions in respect of the later employment at the same rate determined in accordance with paragraph (2J).

(2V) If a dentist performer—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has no dentist performer employment in that scheme year;
- (c) has previous employment as an officer on a whole-time or part-time basis during that scheme year (excluding any employment under a zero hours contract) in respect of which he was liable to pay contributions to the Scheme in accordance with regulation 10 (“the earlier employment”), and
- (d) has ceased the earlier officer employments prior to commencing the later employment,

that dentist performer shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier officer employment.

(2W) Where sub-paragraph (2V) applies and the dentist performer had two or more earlier officer employments, that dentist performer shall pay contributions in respect of the later employment referred to in paragraph (2V)(a) at the same rate as that which applied to whichever of the earlier officer employments was the last to cease.

(2X) Where sub-paragraph (2V) applies and all of the earlier officer employments referred to in paragraph (2V)(c) or the last two or more of them cease on the same day—

- (a) that performer’s superannuable earnings shall be determined by applying the formula—

$$\frac{ESE}{NDSE} \times 365$$

where—

ESE is an estimate of the total of all dentist performer superannuable earnings received for the days of superannuable employment in the 2008-2009 scheme year; and

NDSE is the number of days of superannuable employment, and

- (b) contributions payable shall be those specified in column 2 of Table 1 in respect of the amount of superannuable earnings referred to in column 1 of that Table corresponding to the practitioner’s superannuable earnings for the 2008-2009 scheme year calculated in accordance with this sub-paragraph.

(2Y) Where, at any time during the 2008-2009 scheme year, a practitioner (other than a dentist performer) also commences employment as a dentist performer (or vice versa) the employment as a practitioner (other than as a dentist performer) and the employment as a dentist performer will be treated separately under this paragraph.

(2Z) If none of the previous sub-paragraphs of this paragraph apply, for the purpose of determining a member’s relevant contribution rate the Department must determine the amount of the member’s superannuable pay to be attributed to the 2008-2009 scheme year and, in so doing shall, in addition to the matters referred to in paragraph (2A), have regard to the superannuable pay attributable to superannuable employment comparable to the member’s employment, prevailing pay scales and prevailing rates of superannuable allowances.”.

- (6) In paragraph 10(3)(a) omit “and reaches age 65”.

- (7) For paragraph 11(2) (Normal retirement pension) substitute—

“(2) In respect of—

- (a) any scheme year prior to the 2008-2009 scheme year, the member’s uprated earnings have been uprated in the manner determined by the Department having consulted such professional organisations as the Department considered appropriate;
- (b) the 2008-2009 scheme year and any later scheme year, the member’s uprated earnings are to be calculated by uprating the member’s superannuable earnings by the amount of the annual increase due under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971 and Article 69 of the Social Security Pensions (Northern Ireland) Order 1975(a), plus 1.5 per cent annually.

(a) S.I. 1975/1503

(3) Nothing in this paragraph shall be taken to require the Department to revisit the calculation of uprated earnings referred to in sub-paragraph (2)(a).”.

(8) In paragraph 12—

(a) for “regulation 13 (Early retirement (ill-health) is”, substitute “regulations 13 and 13A are”;

(b) for “that regulation”, substitute “regulation 13 or paragraphs (4) to (6) of regulation 13A”.

(c) after sub-paragraph (2), add—

“(3) Regulation 13A is modified so that the definition of “regular employment of like duration” in paragraph (18) of that regulation means such employment as the Department considers would involve a similar level of engagement in the member’s current superannuable service as a practitioner.”.

(9) After paragraph 16A (Increased surviving civil partner’s pension) insert—

“Increased dependent surviving nominated partner’s pension

16B. In the case of a member who made a nomination under regulation 31F (Dependent surviving nominated partner’s pension) that regulation is modified so that the lump sum payable on the member’s retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

Increased surviving partner pension

16C. In the case of a member who made an election under regulation 31H (Increased surviving civil partner’s pension) that regulation is modified so that the lump sum payable on the member’s retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.”.

(10) For paragraph 17 (Child allowance—member dies in superannuable employment) substitute—

“Child allowance — member dies in superannuable employment

17. In the case of members who die in superannuable employment as practitioners—

(a) paragraphs (4C), (4D), (6) and (7) of regulation 34 (Member dies in superannuable employment) are modified so that the references to the rate of the member’s superannuable pay when he died is treated, in relation to the member’s employment as a practitioner, as references to the average rate of the member’s superannuable earnings during the last complete quarter before the member died;

(b) paragraphs (10) and (12) of that regulation are modified so that the reference to the member’s final year’s superannuable pay when he died is treated as a reference to the yearly average of the member’s uprated earnings at the date of death.”

(11) After paragraph 17 (Child allowance—member dies in superannuable employment), insert—

“Preserved Pension

17A. Regulation 49 is modified so that the definition of “regular employment of like duration” in paragraph (14) of that regulation means such employment as the Department considers would involve a similar level of engagement to the member’s superannuable service as a practitioner immediately before that service ceased.”.

(12) Paragraph 19(6) (Members absent from work) is omitted.

(13) After paragraph 22 (Reduction of pension on return to HSC employment) insert—

“Benefits on death in superannuable employment after pension becomes payable

22A. The following provisions are modified so that the reference to the member’s rate of superannuable pay when he dies is treated as a reference to the average rate of the member’s superannuable earnings during the last complete quarter before the member died—

- (a) paragraphs (7) and (12) of regulation 87 (Benefits on death in superannuable employment after pension under regulation 13 becomes payable); and
- (b) paragraphs (10) and (15)(a) of regulation 87A (Benefits on death in superannuable employment after pension under regulation 13A becomes payable).”.

Amendment of Schedule 2A

64.—(1) Schedule 2A(a) is amended as provided by paragraphs (2) to (4).

(2) In paragraph 1(2)(a) (Discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit), for “paragraph 11” substitute “paragraph 9”.

(3) In paragraph 9 (Payment of lump sum on death)—

(a) in sub-paragraph (c) omit “and (3B)”;

(b) for sub-paragraph (d) substitute—

“(d) the reference in paragraph (3C) to “the member who is in superannuable service under the scheme” shall be a reference to “person entitled to a pension credit or, as the case may be, a pension credit member”.

(4) In paragraph 9, for sub-paragraphs (b), (c) and (d) substitute—

“(b) the reference in paragraphs (2), (3), (4) and (5) of that regulation to “member” shall be a reference to “person entitled to a pension credit or, as the case may be, the pension credit member”;

(c) the reference in paragraphs (2), (3), (4) and (10) of that regulation to “member’s personal representative” shall be a reference to “personal representative of the person entitled to a pension credit or, as the case may be, the pension credit member”.

(d) for paragraph (6) substitute—

“(6) A nomination shall be given only by a person entitled to a pension credit, or as the case may be, a pension credit member under the scheme.”;

(e) for paragraph (9) substitute—

“(9) A person entitled to a pension credit, or as the case may be, a pension credit member whose credit was implemented on, or after, 1st April 2008 cannot give a notice referred to in paragraph (3)(a).”;

(f) in paragraph (12) omit sub-paragraph (d).”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th April 2008.

(L.S.)

D. C. Bingham

A senior officer of the Department of Health, Social Services and Public Safety

The Department of Finance and Personnel consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 8th April 2008.

(L.S.)

Adrian Arbuthnot

A senior officer of the Department of Finance and Personnel

(a) Schedule 2A was inserted by S.R. 2004 No. 104 and amended by S.R. 2006 No. 410

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 (S.I. 1995 No. 95) (“the 1995 Regulations”).

Regulation 1 provides for citation, commencement and retrospective effect. Retrospective effect is provided for by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

Regulation 2 amends certain definitions in the 1995 Regulations.

Regulation 3 amends regulation 3 of the 1995 Regulations (Meaning of superannuable pay). It provides for the calculation of superannuable pay and makes provision for the calculation of pay of a member credited with superannuable service under another public sector pension scheme.

Regulation 4 amends regulation 4 of the 1995 Regulations (Meaning of superannuable service). It provides that benefits are to be calculated by a maximum period of superannuable service (45 years in most cases) and provides that superannuable service in excess of the maxima will be ignored.

Regulation 5 substitutes regulation 7 of the 1995 Regulations (Restrictions on membership). It provides new restrictions on membership of the 1995 HPSS Superannuation Scheme and, in particular, provides that a person over the age of 75 or a person over the age of 70 on or before 31st March 2008 cannot be a member of the Scheme.

Regulation 6 makes consequential amendments to regulation 8 of the 1995 Regulations (Restrictions on further participation in the scheme).

Regulation 7 amends regulation 10 of the 1995 Regulations (Contributions by members). It introduces new contribution rates linked to bands of superannuable pay. Those rates run from 5 per cent to 8.5 per cent (depending on the pay band).

Regulation 8 makes consequential amendments to regulation 11 of the 1995 Regulations (Contributions by employing authorities).

Regulation 9 amends regulation 12 of the 1995 Regulations (Normal retirement pension) so as to provide that the Department can discharge its liability for a pension by the payment of a lump sum and in doing so has to have regard to the life expectancy of a member.

Regulation 10 amends regulation 13 of the 1995 Regulations (Early retirement pension (ill health)), so as to limit its application to a member who retires from superannuable employment on or after 1 April 2008 but submitted an application for the benefit prior to that date.

Regulation 11 inserts new regulations 13A to 13C which introduce a new two tier ill health pension on early retirement, reassessment of an ill health pension awarded on early retirement and the effect of further employment on such a benefit.

Regulation 12 makes a consequential amendment to regulation 14 of the 1995 Regulations (Early retirement pension (redundancy etc)).

Regulation 13 omits regulation 15 of the 1995 Regulations (Early retirement pension (employers consent)).

Regulation 14 inserts a new regulation (17A) which enables a member to opt to exchange part of a pension for a lump sum payment.

Regulation 15 amends regulation 18 of the 1995 Regulations (Member dies in superannuable employment) so as to provide when a lump sum on death is payable.

Regulation 16 amends regulation 19 of the 1995 Regulations (Member dies after pension becomes payable) to take account of the new two tier ill health pension.

Regulation 17 substitutes regulation 22 of the 1995 Regulations (Payment of lump sum) to provide for an order of priority in respect of the payment of a lump sum death benefit.

Regulations 18 to 29 amend regulations 23 to 31D of the 1995 Regulations (Widow and Widowers). In particular, they make provision for the period over which a widow's pension is paid and the rate at which is payable.

Regulation 21 amends regulation 25 of the 1995 Regulations (Member dies after pension becomes payable) to take account of the new two tier ill health pension.

Regulation 22 amends regulation 26 of the 1995 Regulations (Member dies with preserved pension) to provide that where a member dies with a preserved pension, the rate of the dependant's pension will be determined by reference to an ill health pension he would have received had he retired through ill health on the day he left superannuable employment.

Regulation 23 amends regulation 29 of the 1995 Regulations (Widower's pension) to provide that the whole of the member's superannuable service will be taken into account when calculating a widower's pension.

Regulation 24 amends regulation 30 of the 1995 Regulations (Dependent widower's pension) to take account of the new two tier ill health pension.

Regulation 25 amends regulation 31 of the 1995 Regulations (Increased widower's pension) to provide for the payment of a pension to a surviving partner of a female member.

Regulation 26 amends regulation 31A of the 1995 Regulations (Surviving civil partner's pension) to take account of the two tier ill health pension.

Regulation 27 amends regulation 31B of the 1995 Regulations (Dependent surviving civil partner's pension) to take account of the two tier ill health pension.

Regulation 28 amends regulation 31D of the 1995 Regulations (Increased surviving civil partner's pension) to provide for the devolution of a surviving civil partner's pension in cases where the member dies without leaving a civil partner but leaving a surviving widower or nominated partner.

Regulation 29 inserts new regulations 31E to 31H to make provision for a surviving nominated partner's pension on the same basis as a surviving civil partner's or surviving spouse's pension.

Regulation 30 amends regulation 32 of the 1995 Regulations (Dependent child) so as to take account of nominated partner's pensions and to define a dependant child.

Regulation 31 amends regulation 34 of the 1995 Regulations (Member dies in superannuable employment) to provide for the destination of a pension payable in respect of dependents where the member dies in superannuable employment.

Regulation 32 amends regulation 35 of the 1995 Regulations (Member dies after pension becomes payable) to provide for the calculation of a pension in circumstances where a member dies after the pension becomes payable.

Regulation 33 amends regulation 36 of the 1995 Regulations (Member dies with preserved pension) to make similar provision where a member dies with a preserved pension.

Regulation 34 amends regulation 38 of the 1995 Regulations (Child not dependent on surviving parent or spouse of a parent) to take account of nominated partner pensions.

Regulation 35 amends regulation 39 of the 1995 Regulations (Allocation of pension) to take account of the 45 year superannuable service limit in the scheme.

Regulation 36 substitutes regulation 42 of the 1995 Regulations (Contracting-out conditions to be overriding) so as to provide that the scheme will be administered in conformity with the contracting-out conditions applicable to occupational pension schemes.

Regulation 37 amends regulation 43 of the 1995 Regulations (Guaranteed minimum pensions) so as to carry that principle forward in relation to both guaranteed minimum pensions and rights under section 5(2B) of the Pensions Schemes (Northern Ireland) Act 1993.

Regulation 38 amends regulation 49 of the 1995 Regulations (Preserved pension) to provide when a pension and lump sum will be payable in respect of those who have a preserved pension and to determine when a member with a preserved pension shall be treated as being incapable of any regular employment.

Regulation 39 amends regulation 50 of the 1995 Regulations (Refund of contributions) in consequence of the amendments made to Part IV (Contracting-out requirements) of the 1995 Regulations.

Regulation 40 amends regulation 52 of the 1995 Regulations (Early leavers returning to superannuable employment) to take account of the two tier ill health pension.

Regulation 41 substitutes regulations 53 to 59 of the 1995 Regulations.

Regulations 42 and 43 are consequential and in the case of regulation 43 omit regulation 64 of the 1995 Regulations (Waiver of transfer payments).

Regulation 44 amends regulation 66 of the 1995 Regulations (Other leave of absence) to provide that a period of absence continues to count as superannuable service but it does not exceed 6 months and the member continues to contribute to the scheme.

Regulation 45 amends regulation 67 of the 1995 Regulations (Right to buy additional service) to provide when a member can increase his rights to benefit by purchasing additional service.

Regulation 47 amends regulation 70 of the 1995 Regulations (Paying for additional service by single payment) to provide new time limits for the purchasing of additional service and the cost of doing so.

Regulation 48 amends regulation 71 of the 1995 Regulations (Paying for unreduced lump sum by single payment) to impose time limits for the making of an election to pay for an unreduced lump sum by a single payment.

Regulation 49 amends regulation 72 of the 1995 Regulations (Paying for additional service or unreduced retirement lump sum by regular additional contributions) to provide for the limits on the amount of superannuable pay which may be used to purchase additional service or unreduced retirement lump sum by regular contribution payments.

Regulation 51 inserts new regulations 73A to 73J which provide for the facility to purchase additional pension.

- New regulation 73A deals with an option to purchase additional pension.
- New regulation 73B deals with the effect of being absent or leaving and rejoining the scheme during the option period referred to in 73A.
- New regulation 73C deals with the facility to purchase additional pension by the payment of a lump sum (as does 73D in respect of employing authorities).
- New regulation 73E with the procedure for and effect of making an option under regulations 73A, 73C and 73D.

- New regulation 73F deals with the cancellation and cessation of an option under 73A.
- New regulation 73G deals with the effect of the payment of additional contributions.
- New regulation 73H deals with the effect of death or early payment of a pension after an option has been exercised.
- New regulation 73I deals with the effect of part payment of periodical contributions.
- New regulation 73J deals with the revaluation of increases bought under options.

Regulation 52 amends regulation 76 of the 1995 Regulations (Mental health officers) to take account of the new tier 2 ill health pension.

Regulation 53 amends regulation 77 of the 1995 Regulations (Members doing more than one job) to allow for a pension to come into payment at age 75.

Regulation 54 amends regulation 78 of the 1995 Regulations ((Part-time employment) to also take account of the new tier 2 ill health pension.

Regulation 55 amends regulation 82 of the 1995 Regulations (Members whose earnings are reduced) to provide for the protection of pension rights if a member approaching retirement takes up less demanding duties.

Regulation 56 amends regulation 84 of the 1995 Regulations (Suspension of pension on return to HPSS employment) to provide that a pension which has been suspended on return to employment may again become payable in certain specified circumstances.

Regulation 57 amends regulation 85 of the 1995 Regulations (Reduction of pension on return to HPSS employment) to set out the circumstances when certain pensions payable under other parts of the 1995 Regulations will be reduced upon return to employment and the amount by which they will be so reduced.

Regulation 58 inserts a new regulation 86A to deal with the effect of a return to service on a tier 1 or tier 2 ill health pension.

Regulation 59 makes consequential amendments to regulation 87 of the 1995 Regulations (Benefits on death in superannuable employment after pension becomes payable).

Regulation 60 amends regulation 87 of the 1995 Regulations (Benefits on death in superannuable employment after pension becomes payable) detailing the amount of and length of a payment made to a surviving spouse or civil partner or nominated partner.

Regulation 61 inserts a new regulation 87A to deal with benefits on death in superannuable employment after a pension under regulation 13A becomes payable.

Regulation 62 amends regulation 89A of the 1995 Regulations (Deduction of tax: further provisions) to provide that present or future benefits of a member are to be reduced by an amount which fully reflects the amount of tax paid by the scheme administrator.

Regulation 63 amends Schedule 2 to the 1995 Act which modifies the application of the 1995 Regulations in respect of practitioners. In particular, the amendments to Schedule 2 introduce a new contribution rate for practitioners based on superannuable earnings. Those rates run from 5 per cent to 8.5 per cent. The amendments also give effect to nominated partner's pensions, increase in surviving partner pensions and increases in the amounts of child allowance payable where a practitioner dies whilst in superannuable employment.

Regulation 64 amends Schedule 2A to the 1995 Regulations which deals with pension sharing on divorce. The amendments are consequential on changes made elsewhere in the scheme.

© Crown Copyright 2008

Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly

Dd. N3582. C2. 4/08. Gp. 130. 14567.

£9.00