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STATUTORY RULES OF NORTHERN IRELAND

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**2008 No. 256**

**The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008**

**PART 2**

**BENEFITS FOR OFFICERS**

**CHAPTER 9**

**MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS**

*Scheme administrator*

**Appointment of scheme administrator**

**124.**—(1) For the purposes of this Part and of Part 4 of the Finance Act 2004, the Scheme administrator is the Department.

*Claims*

**Claims for benefits**

[<sup>F1</sup>**125.**—(1) A person claiming to be entitled to benefits under this Part (“the claimant”) shall make a claim in writing to the Department.

(2) Pursuant to such a claim, the claimant and, where appropriate, the member’s employing authority (including any previous employing authority of the member) shall provide such—

- (a) evidence of entitlement;
- (b) information required in order to deal with the claim; and
- (c) authority or permission as may be necessary for the release by third parties of information in their possession relating to the claimant or member,

as the Department may from time to time require for the purposes of this Part.

(3) A claim referred to in paragraph (1) may be made by a person or persons other than the claimant where the Department so provides.

(4) Any claim for benefit required in writing under this Part, and any evidence, information, authority or permission given in connection with that claim, may be made or given by means of an electronic communication where such method of communication is approved by the Department from time to time.

(5) In this regulation, “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000.]

**F1** Reg. 125 substituted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **48** (with reg. 89)

**[<sup>F2</sup>Provision of information: continuing entitlement to benefit**

**125A.**—(1) The Department may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Department with all or any of the following material—

- (a) evidence of the person's identity;
- (b) the person's contact details;
- (c) evidence of the person's continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Department may withhold all, or any part of, any benefit payable to that person.]

**F2** Reg. 125A inserted (retrospective and with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/259), regs. 1(2), **35**

*Power to extend time limits*

**Power to extend time limits**

**126.** The Department may extend any time limit mentioned in this Part as it applies in any particular case.

*Beneficiaries who are incapable of looking after their affairs*

**Beneficiaries who are incapable of looking after their affairs**

**127.**—(1) In the case of a beneficiary who, in the opinion of the Department, is by reason of illness, mental disorder, minority or otherwise unable to look after the beneficiary's affairs, the Department may—

- (a) use any amount due to the beneficiary under the Scheme for the beneficiary's benefit, or
- (b) pay it to some other person to do so.

(2) Payment of an amount to a person other than the beneficiary under paragraph (1) discharges the Department from any obligation under the Scheme in respect of the amount.

*Commutation of small pensions*

**Commutation of small pensions**

**128.**—(1) The Department may pay any person entitled to a pension under [<sup>F3</sup>this Section of] the Scheme a lump sum representing the capital value of the pension and of any benefits that might have

become payable under [<sup>F3</sup>this Section of] the Scheme on the person's death apart from the payment if the conditions specified in paragraph (2) are met.

(2) The conditions are that the payment complies with the following requirements (in so far as they apply)—

- (a) the contracting-out requirements,
- (b) the preservation requirements,
- (c) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997 <sup>M1</sup>,
- <sup>F4</sup>(d) . . . . .
- (e) the lump sum rule (see, in particular, paragraph 7 of Schedule 29 to the Finance Act 2004: trivial commutation lump sums for the purposes of Part 4 of that Act), <sup>F5</sup>...
- (f) the lump sum death benefit rule (see, in particular, paragraph 20 of that Schedule: trivial commutation lump sum death benefit for the purposes of that Part)<sup>F6</sup>; and
- (g) Regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payment by larger pension schemes).]

(3) The lump sum must be calculated by the Department in accordance with advice from the Scheme actuary.

(4) The payment of a lump sum under this regulation discharges all liabilities of the Department in respect of the pension in question and of any other such benefits as mentioned in paragraph (1).

- F3** Words in [reg. 128\(1\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), reg. 1(2), **Sch. 2 Pt. 1**
- F4** [Reg. 128\(2\)\(d\)](#) omitted (with effect in accordance with reg. 1(3)(f) of the amending Rule) by virtue of [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **47**
- F5** Word in [reg. 128\(2\)](#) omitted (14.3.2012) by virtue of [The Health and Personal Social Services \(Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/42\)](#), regs. 1(2), **19(2)**
- F6** [Reg. 128\(2\)\(g\)](#) and word added (14.3.2012) by [The Health and Personal Social Services \(Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/42\)](#), regs. 1(2), **19(3)**

#### Marginal Citations

**M1** [S.R.1997 No. 153](#)

### *Reduction in and forfeiture of benefits*

#### **Reduction in benefits in cases where loss caused by member's crime, negligence or fraud**

**129.—**(1) If, as a result of a member's criminal, negligent or fraudulent act or omission, a loss to public funds occurs that arises out of or is connected with the member's employment relationship with the member's employer, the Department—

- (a) may reduce any pension or other benefit payable to, or in respect of, the member under these Regulations by an amount less than or equal to the loss, or
  - (b) in a case where the loss equals or exceeds the value of the pension or other benefit, reduce them to nil or by any amount less than that value.
- (2) Paragraph (1) does not apply so far as the pension or other benefit—
- (a) is a guaranteed minimum pension or safeguarded rights which are derived from rights to such a pension, or
  - (b) arise out of a transfer payment.
- (3) If the Department proposes to exercise the power under paragraph (1), the Department must give the member a certificate specifying the amount of the loss to public funds and of the reduction in benefits.
- (4) If the amount of the loss is disputed, no reduction may be made under paragraph (1) until the member's obligation to make good the loss has become enforceable—
- (a) under the order of a competent court, or
  - (b) in consequence of an award of an arbitrator.
- (5) If the loss is suffered by an employing authority, the amount of any reduction under paragraph (1) must be paid to that authority.

### **Forfeiture of rights to benefits**

**130.**—(1) The Department may direct that all or part of any rights to benefits or other amounts payable to or in respect of a member under these Regulations be forfeited if—

- (a) the member is convicted of any of the offences specified in paragraph (2), and
  - (b) the offence was committed before the benefit or other amount becomes payable.
- (2) The offences are—
- (a) an offence in connection with employment that qualifies the member to belong to [<sup>F7</sup>this Section of] the Scheme, in respect of which the Secretary of State has issued a forfeiture certificate,
  - (b) one or more offences under the Official Secrets Acts 1911 to 1989 [<sup>F8</sup>, or under section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023,] for which the member has been sentenced on the same occasion to—
    - (i) a term of imprisonment of at least 10 years, or
    - (ii) two or more consecutive terms amounting in aggregate to at least 10 years.

(3) In paragraph (2)(a) “forfeiture certificate” means a certificate that the Secretary of State is satisfied that the offence—

- (a) has been gravely injurious to the State, or
- (b) is liable to lead to serious loss of confidence in the public service.

(4) The Department may direct that all or part of any rights to benefits or other amounts payable in respect of a member under these Regulations be forfeited where the benefits or amounts are payable to a person to whom paragraph (5) applies who has been convicted of the murder or manslaughter of that member or of any other offence of which unlawful killing of that member is an element.

- (5) This paragraph applies to a person who is—
- (a) the member's widow, widower, [<sup>F9</sup>surviving scheme partner] or surviving civil partner,
  - (b) a dependant of the member,

- (c) a person not falling within sub-paragraph (a) or (b) who is specified in a notice given under regulation 87(3) [<sup>F10</sup>or (10)] , or
- (d) a person to whom such benefits or amounts are payable under the member's will or on the member's intestacy.
- (6) Subject to paragraph (7), a guaranteed minimum pension or safeguarded rights which are derived from rights to such pensions may be forfeited only if paragraph (1) applies in the case of an offence within paragraph (2)(b).
- (7) This regulation is without prejudice to section 2 of the Forfeiture Act 1870 <sup>M2</sup> (under which forfeiture is required in cases of treason, subject to whole or partial restoration under section 9(2) of the Criminal Justice Act (Northern Ireland) 1953 <sup>M3</sup>).

- F7** Words in [reg. 130\(2\)\(a\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), reg. 1(2), **Sch. 2 Pt. 1**
- F8** Words in [reg. 130\(2\)\(b\)](#) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Subordinate Legislation\) Regulations 2023 \(S.I. 2023/1267\)](#), reg. 1(2), **Sch. para. 26**
- F9** Words in [reg. 130\(5\)\(a\)](#) substituted (16.8.2022) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **42**
- F10** Words in [reg. 130\(5\)\(c\)](#) inserted (with effect in accordance with reg. 1(3) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), regs. 1(2), **49** (with reg. 89)

#### Marginal Citations

- M2** 1870 c. 32
- M3** 1953 c. 14 (N.I. )

### *Provisions about tax*

#### **Deduction of tax**

**131.**—(1) The Department may deduct from any payment under [<sup>F11</sup>this Section of] the scheme any tax which is required to be paid in respect of it.

(2) Without prejudice to the generality of paragraph (1), if a person becoming entitled to a benefit under this Part—

- (a) is a benefit crystallisation event under section 216 of the Finance Act 2004, and
  - (b) a lifetime allowance charge under section 214 of that Act arises when that event occurs,
- the tax charged must be paid by the Scheme administrator.

(3) Paragraph (4) applies if—

- (a) a member has given the scheme administrator a statement in accordance with regulation 87 (tax treatment under the Finance Act 2004 of lump sums payable on pensioners' death) that a lump sum payable under that regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the Finance Act 2004, and
- (b) has not withdrawn that statement.

(4) Without prejudice to the generality of paragraph (1), when the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 of that Act (special lump sum death benefits charge) from the lump sum.

[<sup>F12</sup>(5) Paragraph (6) applies if—

- (a) a lump sum death benefit is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 83 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 49 employments)); and
- (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member's death.

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

(7) Paragraph (8) applies if—

- (a) an active, non-contributing or pension credit member opts to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of regulation 59 (Option for members in serious ill-health to exchange whole pension for lump sum); and
- (b) that lump sum payment is made to a member who has reached the age of 75.

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

[<sup>F13</sup>(9) Without prejudice to the generality of paragraph (1), a person who—

- (a) is liable for an annual allowance charge in accordance with section 237A of the 2004 Act, and
- (b) meets the conditions specified in paragraph (1) of section 237B of that Act,

may give notice in writing to the Department specifying that the Department and that person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(10) Unless the Department's liability for an annual allowance charge referred to in paragraph (9) is discharged in accordance with section 237D of the 2004 Act—

- (a) that annual allowance charge will be paid by the Department on behalf of the member, and
- (b) that person's present or future benefits in respect of which that charge arises shall be adjusted in accordance with section 237E of the 2004 Act and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose.]

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| <b>F11</b> | Words in <a href="#">reg. 131(1)</a> inserted (with effect in accordance with <a href="#">reg. 1(2)</a> of the amending Rule) by <a href="#">The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22)</a> , <a href="#">reg. 1(2)</a> , <b>Sch. 2 Pt. 1</b> |
| <b>F12</b> | <a href="#">Reg. 131(5)-(8)</a> added (6.4.2012) by <a href="#">The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/42)</a> , <a href="#">regs. 1(5)</a> , <b>20</b>   |
| <b>F13</b> | <a href="#">Reg. 131(9)(10)</a> added (11.8.2012) by <a href="#">The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/78)</a> , <a href="#">regs. 1(4)(b)</a> , <b>16</b>  |

### *Interest on delayed payments*

#### **Interest on late payment of benefits and refunds of contributions**

**132.—**(1) This regulation applies if the whole or part of an amount to which this regulation applies is not paid by the end of the period of one month beginning with the due date.

(2) This regulation applies to any amount payable by way of a pension, lump sum or refund of contributions under [<sup>F14</sup>this Section of] the Scheme (other than any amount due under regulation 31 or 32) or interim [<sup>F15</sup>or substitute] award.

[<sup>F16</sup>(3) The Department must pay interest on the amount of a pension, lump sum, refund of contributions or an interim or substitute award which is unpaid (“the unpaid amount”) to the person to whom it should have been paid unless the Department is satisfied that the unpaid amount was not paid on the due date because of some act or omission on the part of the member or other person to whom it should have been paid.]

(4) The interest on the unpaid amount is calculated at the base rate on a day to day basis from the due date for the amount to the date of its payment and compounded with three-monthly rests.

(5) For the purposes of this regulation, except where paragraph (6) applies, “due date”, in relation to an unpaid amount [<sup>F17</sup>(other than an unpaid amount in respect of an interim or substitute award)] , means—

- (a) in the case of an amount in respect of a pension or lump sum payable to a member under Chapter 4 (members' retirement benefits) [<sup>F18</sup>or a lump sum under regulation 136L] , the day immediately following that of the member's retirement from pensionable employment,
- (b) in the case of an amount in respect of a pension payable on a member's death [<sup>F19</sup>, other than a pension payable under regulation 86A (Pension payable when member dies on or after reaching age 75)] , the day after the date of death,
- (c) in the case of an amount in respect of a lump sum under Chapter 5 (death benefits) that is payable to the member's personal representatives, the earlier of—
  - (i) the date on which probate or letters of administration were produced to the Department, and
  - (ii) the date on which the Department was satisfied that the lump sum may be paid as provided in regulation 87(9), and
- (d) in the case of an amount in respect of any other lump sum under that Chapter, the day after the date of the member's death, and
- (e) in the case of an amount in respect of a refund of contributions, the day after that on which the Department received from Her Majesty's Commissioners of Revenue and Customs the information required for the purposes of calculating the amount to be subtracted under regulation 44(3) or (4)[<sup>F20</sup>; and
- (f) in the case of an amount in respect of a pension under regulation 86A that is payable to—
  - (i) the member's personal representatives, the date on which probate or letters of administration were produced to the Department,
  - (ii) any person or body to whom the pension has been assigned by the member's personal representatives, the date on which the notice under regulation 87(10) was received by the Department, and
  - (iii) any person or body other than those referred to in heads (i) and (ii), the day immediately following the day of the member's death.]

[<sup>F21</sup>(6) The due date for an unpaid amount—

- (a) referred to in paragraph (5) in respect of which the Department was not in possession of all the information necessary for the calculation of the amount of the pension, lump sum or refund of contributions referred to in that paragraph on the date which would, in accordance with paragraph (5) be the due date;
  - (b) in respect of an interim or substitute award,
- shall be the first day on which the Department was in possession of all the information necessary to calculate that pension, lump sum, refund of contributions or interim or substitute award.]
- (7) In this regulation, “[<sup>F22</sup>interim or substitute award]” means—
- (a) any amount paid by way of an interim payment calculated by reference to an expected benefit under [<sup>F23</sup>this Section of] the Scheme pending final calculation of the full value of that benefit, <sup>F24</sup>...
  - (b) any amount paid that increases the amount of an earlier payment due to a backdated or subsequent increase in pensionable pay<sup>F25</sup>; and
  - (c) any amount paid that increases the amount of an earlier payment due to the payment of a tier 2 ill-health pension under regulation 52 paid to a member in substitution for a tier 1 ill-health pension under that regulation following a determination by the Department under regulation 53.]

- F14** Words in [reg. 132\(2\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), reg. 1(2), **Sch. 2 Pt. 1**
- F15** Words in [reg. 132\(2\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **48(2)**
- F16** [Reg. 132\(3\)](#) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **48(3)**
- F17** Words in [reg. 132\(5\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **48(4)**
- F18** Words in [reg. 132\(5\)\(a\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), reg. 1(2), **54**
- F19** Words in [reg. 132\(5\)\(b\)](#) inserted (with effect in accordance with reg. 1(3) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), regs. 1(2), **50(2)** (with [reg. 89](#))
- F20** [Reg. 132\(5\)\(e\)](#) and word added (with effect in accordance with reg. 1(3) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), regs. 1(2), **50(3)** (with [reg. 89](#))
- F21** [Reg. 132\(6\)](#) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **48(5)**



- F22** Words in reg. 132(7) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme and Injury Benefits) and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/188), regs. 1(2), **48(6)**
- F23** Words in reg. 132(7)(a) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**
- F24** Word in Reg. 132(7)(a) omitted (with effect in accordance with reg. 1(2) of the amending Rule) by virtue of The Health and Personal Social Services (Superannuation Scheme and Injury Benefits) and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/188), regs. 1(2), **48(6)(b)**
- F25** Reg. 132(7)(c) and word added (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme and Injury Benefits) and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2009 (S.R. 2009/188), regs. 1(2), **48(6)(c)**

## **[F26] Interest and Administration Charges: Late paid contributions**

**132A.**—(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 27, 30, 31, 32, 34, 36, or 37 there is a chargeable event.

(2) Where there is a chargeable event, the Department may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions (if any) it has paid at such an event;
- (c) any other factors that the Department considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Department becomes aware of a chargeable event, the Department shall give the employing authority a written notice specifying—

- (a) the date of the chargeable event;
- (b) the amount of unpaid contributions determined under paragraph (2);
- (c) the amount of interest at the standard rate payable in respect of that event;
- (d) the amount of administration charge payable in respect of it;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Department considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid over a period and by a number of instalments, determined by the Department.

(6) Where the Department considers the case to be exceptional, nothing in the preceding paragraphs prevents the Department from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) In the case of arrears in respect of the scheme year 2015-16 and subsequent years, the standard rate of interest is the aggregate of the percentage (if any) by which the consumer prices index for the February before the scheme year in which the chargeable event arose is higher than it was for the previous February plus 3%, compounded at annual intervals.

(8) The administration charge in respect of arrears in respect of the scheme year 2015-2016 and subsequent years is £75.

(9) In any particular case the Department may direct that, for the purposes of this regulation, “employing authority” includes one or more of, a successor, transmittee or assignee of an employing authority’s business or functions.]

**F26** Reg. 132A inserted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/121\)](#), regs. 1(2), **32**

### *Determination of questions*

#### **Determination of questions**

**133.**—(1) Except as otherwise provided by this Part, any question arising under the Scheme is to be determined by the Department.

(2) Any such disagreement as is referred to in Article 50 of the 1995 Order (resolution of disputes) must be resolved by the Department in accordance with any arrangements applicable under that Article.

### *General prohibition on unauthorised payments*

#### **General prohibition on unauthorised payments**

**134.** Nothing in these [<sup>F27</sup>Regulations] requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the Finance Act 2004 (see section 160(5) of that Act).

**F27** Word in [reg. 134](#) substituted (retrospective and with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Additional Voluntary Contributions\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/259\)](#), regs. 1(2), **36**

### *Prohibition on assignment or charging of benefits*

#### **Prohibition on assignment or charging of benefits**

**135.**—(1) Any assignment of, or charge on, or any agreement to assign or charge, any right to a benefit under [<sup>F28</sup>this Section of] the Scheme is void.

(2) On the bankruptcy of any person entitled to a benefit under [<sup>F28</sup>this Section of] the scheme, no part of the benefit may be paid to the person's trustee in bankruptcy or other person acting on behalf of the creditors, except in accordance with an order under Article 283 of the Insolvency (Northern Ireland) Order 1989 <sup>M4</sup> (income payments orders).

**F28** Words in [reg. 135\(1\)\(2\)](#) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), reg. 1(2), **Sch. 2 Pt. 1**

**Marginal Citations**

**M4** 1989/2405 (N.I. 19)

*Record keeping and contribution estimates*

**[<sup>F29</sup>Employing authority and certain member record keeping and contribution estimates**

**136.**—(1) As regards a member who is a non-GP provider who derives practitioner income from the contracts, agreements or payments referred to in regulation 13(6), in respect of each scheme year, the member shall provide each relevant host Board with a certificate of their pensionable earnings based on—

- (a) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which the member is a member; and
- (b) the return that member has made to Her Majesty's Revenue and Customs in respect of their earnings for that year,

no later than 1 month after the date on which that return was required to be submitted to Her Majesty's Revenue and Customs.

[<sup>F30</sup>(2) As regards a GMS practice or an APMS contractor, in respect of each scheme year, the practice or contractor must provide the Department with a statement of estimated pensionable earnings in respect of any non-GP provider that is a GMS practice or APMS contractor or who assists in the provision of HSC services provided by that GMS practice or APMS contractor, at least 1 month before the beginning of that scheme year.]

(3) If, in respect of a scheme year, a non-GP provider has failed to comply with the requirements of paragraph (1), the non-GP provider's pensionable earnings for that scheme year shall be zero [<sup>F31</sup>and no contributions paid in respect of that scheme year are to be refunded] .

This is subject to paragraph (4).

(4) If, in respect of a scheme year—

- (a) a non-GP provider has failed to comply with the requirements of paragraph (1);
- (b) a benefit is payable for, or in respect of their non-GP provider service; and
- (c) the non-GP provider's employing authority is in possession of a figure representing all or part of the non-GP provider's pensionable earnings for that year,

the Department may treat that figure as the amount of the non-GP provider's pensionable earnings for that year.

(5) If, in respect of a scheme year, a non-GP provider—

- (a) dies without complying with the requirements of paragraph (1); or
- (b) is, in the opinion of the Department, unable to look after the non-GP provider's own affairs by reason of illness or lack of capacity,

the Department may require that non-GP provider's personal representatives to provide the relevant certificate—

- (i) within the period referred to in paragraph (1), or

(ii) within such other period as the Department should permit.

[<sup>F32</sup>(6) An employing authority must, in respect of a person, keep a record of all—

- (a) contributions paid under regulations 27, 34 or 36;
- (b) contributions due under regulations 27, 34 or 36, but unpaid;
- (c) contributions paid under regulation 31;
- (d) contributions due under regulation 31, but unpaid;
- (e) hours or sessions referred to in regulation 8;
- (f) pensionable pay, or in the case of a non-GP provider, pensionable earnings;
- (g) absences from work referred to in regulation 9;
- (h) commencements and terminations of pensionable employment;
- (i) reasons for terminations of pensionable employment.

(7) That record is to be in a manner approved by the Department.

(8) Except where the Department waives such requirement, an employing authority must provide a composite statement in respect of the matters referred to in paragraph (6) in respect of all scheme members to the Department within 2 months of the end of each scheme year.

(9) Where an employing authority has provided the information in accordance with paragraph (8) and there is then a change to any of the information provided, that employing authority must, within 1 month of the change, provide the Department with the revised information.

(10) In respect of each scheme year an employing authority shall, within 2 months of a request and in a manner prescribed by the Department, provide the Department with details of the total contributions paid for all scheme members under regulations 27, 31 and 34.

(11) Where an employing authority has provided the information requested pursuant to paragraph (10) and there is a revision to the total contributions paid, that employing authority must, within 1 month of the change, provide the Department with the revised total.

(12) In respect of each scheme year an employing authority shall, no later than 1 month before the beginning of that scheme year, and in a manner prescribed by the Department, provide the Department with a statement of estimated total contributions due under regulations 27, 31 and 34.

(13) A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment or of a disturbance in the functioning of his mind or brain.]]

- F29** Reg. 136 substituted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme and Injury Benefits\) and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/188\)](#), regs. 1(2), **49**
- F30** Reg. 136(2) substituted (16.8.2022) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **43**
- F31** Words in reg. 136(3) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) \(Amendment No.2\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/225\)](#), regs. 1(2), **14(2)**
- F32** Reg. 136(6)-(13) substituted for reg. (6)-(10) (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) \(Amendment No.2\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/225\)](#), regs. 1(2), **14(3)**

[<sup>F33</sup>**Benefit information statements**

**136ZA.**—(1) The Department must provide a benefit information statement to each member in accordance with—

- (a) section 14 (Information about benefits) of the 2014 Act; and
- (b) any Department of Finance and Personnel directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Department is only required to provide a member with one benefit statement per scheme year.

(4) A benefit information statement provided pursuant to paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.]

**F33** Reg. 136ZA inserted (1.4.2015) by The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/122), reg. 1, **Sch. 2 para. 15**

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008, CHAPTER 9.