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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 65**

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

PART 2

AMENDMENT OF THE HEALTH AND SOCIAL CARE (PENSION  
SCHEME) REGULATIONS (NORTHERN IRELAND) 2008

**Amendment of the 2008 Regulations**

**23.** The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008<sup>(1)</sup> shall be amended as provided by regulations 24 to 83.

**Amendment of regulation 6**

**24.** In Regulation 6 (Interpretation: general)—

(a) before the definition of “corresponding health service scheme” insert—

““corresponding 1995 scheme” means a corresponding health service scheme the provisions of which the Department has determined correspond to the provisions of the 1995 Regulations;

“corresponding 2008 scheme” means a corresponding health service scheme the provisions of which the Department has determined correspond to the provisions of these Regulations;”;

(b) for the definition of “corresponding health service scheme” substitute—

““corresponding health service scheme” means—

(a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972<sup>(2)</sup> and having effect in England, Wales and Scotland,

(b) a scheme made under section 2 of the Superannuation Act 1984<sup>(3)</sup> (an Act of Tynwald) applies, and

(c) any other occupational pension scheme approved for the purposes of this regulation by the Department;”;

(c) for the definition of “host Board” substitute—

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<sup>(1)</sup> [S.R. 2008 No. 256](#)

<sup>(2)</sup> 1972 c. 11

<sup>(3)</sup> 1984 c. 8 (Tynwald)

““host Board”, in respect of a person who is a registered medical practitioner or non-GP provider who is—

- (a) a partner in a partnership—
  - (i) that is a GMS practice, or
  - (ii) that is an APMS contractor that has entered into an APMS contract for the provision of primary medical services;
- (b) a shareholder in a company limited by shares that is a GMS practice or an APMS contractor that has entered into an APMS contract for the provision of primary medical services;
- (c) an individual who is a GMS practice or an APMS contractor,

means each Health and Social Services Board with which that partnership (in the case of paragraph (a)), company (in the case of paragraph (b)) or practice or contractor (in the case of paragraph (c)) has entered into an agreement or contract referred to in those provisions and (in the case of a registered medical practitioner) the relevant Health and Social Services Board on whose medical performers' list that practitioner's name appears, and such a person shall be deemed to be employed by the appropriate Health and Social Services Board for the purposes of this Part;”;

- (d) for the definition of “OOH services” substitute—

““OOH services” means services which are required to be provided in the out of hours period and which, if provided during core hours by a GMS practice or APMS contractor to patients to whom the practice or contractor is required by its GMS contract or APMS contract to provide essential services, would be or would be similar to essential services”.

#### **Amendment of regulation 7**

- 25.** In regulation 7 (Meaning of “pensionable service”), after paragraph (7) add—

“(8) Where a member is also a member of the HPSS Superannuation Scheme 1995, any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LSS$$

where—

SP is the shorter period, measured in years and days, and

LSS is the length of superannuable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the HPSS Superannuation Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

#### **Amendment of regulation 9**

- 26.** In regulation 9 (Pensionable service: breaks in service), for paragraph (3) substitute—

“(3) If a member is on leave of absence but does not fall within paragraph (1)(a) to (e), and contributes to the Scheme under regulation 27 by contributions made at the same

intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 6 months commencing with the first day of the member’s leave of absence, 6 months; and
- (b) where the member contributes for a continuous period of less than 6 months commencing with the first day of the member’s leave of absence, the period in respect of which the member pays those contributions.

(3A) If, having paid contributions for the period mentioned in paragraph (3)(a) a member remains on a leave of absence that does not fall within paragraph (1)(a) to (e) and contributes to the Scheme both member contributions under regulation 27 and employer contributions under regulation 31 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), 18 months; and
- (b) where the member contributes for a continuous period of less than 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), the period in respect of which the member pays those contributions.”.

#### **Amendment of regulation 10**

**27.**—(1) Regulation 10 (Meaning of “qualifying service”) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(b), after “pension arrangement” insert “(including the HPSS Superannuation Scheme 1995)”.

(3) After paragraph (1)(e) add—

“; and

(f) in the case of a person—

- (i) who is eligible to join the Scheme by virtue of regulation 21(5)(c), and
- (ii) for whom the interval between leaving the HPSS Superannuation Scheme 1995 and joining the Scheme is less than one month,

a period equal to the period of qualifying service (within the meaning of the 1995 Regulations), measured in years and days, that the member was entitled to count under regulation 5 of the 1995 Regulations when the member left that scheme.”.

#### **Amendment of regulation 14**

**28.**—(1) Regulation 14 (Pensionable pay: breaks in service) is amended as provided by paragraphs (2) to (10).

(2) In paragraph (2), after “paragraph (3)” insert “in the case of a member who is not a non-GP provider and paragraph (7) in the case of a member who is a non-GP provider”.

(3) In paragraph (3), before “falling” insert “who is not a non-GP provider”.

(4) In paragraph (6), for “(up to 6” substitute “or (3A) (up to 24”.

(5) In paragraph (7), for “13(9)” substitute “13(8)”.

(6) For paragraph (8), substitute—

“(8) If the earnings used to calculate a member’s pensionable pay cease during a period of absence to which this regulation applies—

- (a) a non-GP provider falling within paragraph (1)(a) will, subject to sub-paragraph (b), be treated as having continued in pensionable employment for a period of 12 months from the date on which the member’s earnings ceased and the member will not be treated as having left pensionable employment until the end of that 12 month period;
- (b) a non-GP provider falling within paragraph (1)(b) to (e) who paid contributions on the basis of reduced earnings in accordance with paragraph (4)(b) will, subject to paragraph (9), continue to pay contributions at that rate, except that no refund of contributions or other benefit will be payable until the member actually leaves pensionable employment;
- (c) a member other than a non-GP provider will, subject to paragraph (5), be treated as having left pensionable employment except that no refund of contributions or other benefit will be payable until the member actually leaves pensionable employment.

(8A) For the purposes of paragraph (8)(a)—

- (a) during the 12 month period, the non-GP provider’s pensionable earnings will be calculated as described in paragraph (7)(a) or (b);
- (b) at the end of the 12 month period, when the member is regarded as having left pensionable employment, no refund of contributions or other benefit will be payable until the member actually leaves employment.”.

(7) In paragraph (9), after “paragraph (8)” insert “(b)”.

(8) In paragraph (10), for “non-GP provider” in each place substitute “member”.

(9) In paragraph (11)—

- (a) for “non-GP provider” in each place substitute “member”;
- (b) for “paragraph (7)” substitute “this regulation”;
- (c) for “paragraph (10)” substitute “paragraph (8)(c), (8A)(b) or (10)”.

(10) In paragraph (12), for “non-GP provider” in each place substitute “member”.

### **Amendment of regulation 21**

**29.**—(1) Regulation 21(5) (Eligibility: general) is amended as provided by paragraphs (2) and (3).

(2) After sub-paragraph (d) add—

- “(e) the person—
  - (i) ceased to be an active member of the HPSS Superannuation Scheme 1995 on leaving HSC employment,
  - (ii) became a deferred member of that Scheme on leaving that employment and has not become a pensioner member of that Scheme between the date of leaving that employment and joining the Scheme, and
  - (iii) re-entered HSC employment on or after 1st October 2008 and 5 or more years since last leaving HSC employment; or
- (f) the person—
  - (i) ceased to be an active member of the HPSS Superannuation Scheme 1995 before 1st April 2008 on leaving HSC employment,
  - (ii) became a deferred member of that Scheme on leaving that employment,

- (iii) re-entered HSC employment on or after 1st October 2008 and 5 or more years since last leaving HSC employment, and
  - (iv) before the person re-entered such employment—
    - (aa) a transfer payment was made in respect of the person under Part VI of that Scheme, or
    - (bb) the person made an application under regulation 54 of that Scheme (Exercising a right to transfer or buy-out) from which the person may not withdraw.”.
- (3) In the full-out words, for “sub-paragraph (d)” substitute “sub-paragraphs (d) to (f)”.

#### **Amendment of regulation 22**

- 30.** For paragraph (2)(b) of regulation 22 (Restrictions on eligibility: general), substitute—
- “(b) became a pensioner member of that Scheme on or after that date; or
  - (c) is a deferred member of that Scheme, but is not a deferred member—
    - (i) to whom regulation 21(5)(e) or (f) applies, and
    - (ii) in respect of whom permission of the Department to rejoin the HPSS Superannuation Scheme 1995 has not been granted pursuant to regulation 7(3) of the 1995 Regulations.”.

#### **Amendment of regulation 28**

- 31.** In regulation 28(3) (Members' contribution rate), after “may” insert “, with the consent of the Department of Finance and Personnel,”.

#### **Amendment of regulation 31**

- 32.—**(1) Regulation 31 (Contributions by employing authorities: general), is amended as provided by paragraphs (2) and (3).
- (2) For paragraph (2) substitute—
- “(2) In specifying such a rate, the Department must—
    - (a) obtain the consent of the Department of Finance and Personnel; and
    - (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971<sup>(4)</sup> and Article 69 of the Social Security Pensions (Northern Ireland) Order 1975<sup>(5)</sup>.”.
- (3) After paragraph (5) add—
- “(6) In any particular case the Department may direct that, for the purposes of this Chapter, “employing authority” includes one or more of—
    - (a) the transferee under a transfer of staff order pursuant to—
      - (i) Article 3(4)(b) of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990<sup>(6)</sup>, or

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<sup>(4)</sup> 1971 c. 35 (N.I.)

<sup>(5)</sup> S.I. 1975/1503 (N.I. 15)

<sup>(6)</sup> S.I. 1990/247 (N.I. 3)

- (ii) paragraph 24(2) of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991(7);
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority's business or functions; and
- (c) the last employing authority of a person to whom these Regulations apply.”.

### **Amendment of regulation 53**

**33.** In Regulation 53 (Re-assessment of entitlement to an ill-health pension determined under regulation 52) for paragraph (2)(a), substitute—

- “(a) in the case of a member who does not engage in further HSC employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the end of that period;
- (aa) in the case of a member who does engage in further HSC employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the first anniversary of the day on which that employment commences or before the end of that period if sooner;”.

### **Amendment of regulation 54**

**34.—**(1) Regulation 54 (Early retirement on ill-health (deferred members)) is amended as provided by paragraphs (2) and (3).

- (2) In paragraph (1)(a), before “incapable” insert “permanently”.
- (3) In paragraph (2)(a)(ii), for “impairment” substitute “infirmity”.

### **Amendment of regulation 76**

**35.** In regulation 76(7) (Amount of children's pension under regulation 74: deceased active members), for “paragraph (4)(b) or (c)” substitute “paragraph (5)(b) or (c)”.

### **Insertion of new regulation 86A**

**36.** After regulation 86 (Amount of lump sum: pension credit members), insert—

#### **“Pension payable when member dies on or after reaching age 75**

**86A.—**(1) If a pensioner member or a pension credit member dies—

- (a) on or after reaching age 75; and
- (b) before the fifth anniversary of the date on which the member's pension became payable,

an annual pension, calculated in accordance with paragraph (2), may be payable from the day following the date of the member's death until the anniversary referred to in sub-paragraph (b).

(2) The pension payable under paragraph (1) is determined by—

- (a) calculating the amount of the lump sum that would have been payable in respect of the pensioner member or pension credit member under regulation 83(2) or, as the case may be, 86 as if on the day the member died the member had not reached the age of 75; and

- (b) converting any amount determined in sub-paragraph (a) to an annual pension payable for the period specified in paragraph (1), by reference to guidance and tables provided by the Scheme actuary for the purpose.
- (3) The “beginning date” of the pension calculated in paragraph (2) will, for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971, be the day immediately following the date of death of the pensioner member or pension credit member.
- (4) The pension calculated under this regulation will be payable in accordance with regulation 87.”.

### **Amendment of regulation 87**

**37.**—(1) Regulation 87 (Payment of lump sums on death) is amended as provided by paragraphs (2) to (7).

- (2) In the heading to that regulation, after “lump sums” insert “or pensions”.
- (3) In paragraph (1), after “regulation 82” insert “or a pension payable under regulation 86A”.
- (4) In paragraph (2)—
  - (i) after “lump sum” insert “or pension”, and
  - (ii) for “under paragraph (4) or (6)” substitute “or body under paragraph (4), (6) or (10)”.
- (5) In paragraphs (3), (4) and (6), after “lump sum” in each paragraph insert “or pension”.
- (6) In paragraph (7), after “lump sum” in each place insert “or pension”.
- (7) After paragraph (9), add—
  - “(10) The member’s personal representatives may, as part of the distribution of the member’s estate, give irrevocable notice to the Department—
    - (a) specifying—
      - (i) one or more individuals, or
      - (ii) one incorporated or unincorporated body,to whom the benefit of the pension under regulation 86A from the date of receipt of the notice by the Department is to be assigned; and
    - (b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.
  - (11) This paragraph applies if—
    - (a) the person specified in the notice has died before the payment can be made;
    - (b) payment to that person is not, in the opinion of the Department, reasonably practicable; or
    - (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation 130 (4) (Forfeiture of rights to benefit) and the Department has directed, as a consequence of that conviction, that the person’s right to a payment in respect of the member’s death is forfeited.
  - (12) The prohibition on assignment of benefits in regulation 135 (Prohibition on assignment or charging of benefits) shall not apply to an assignment by personal representatives under this regulation.”.

### **Amendment of regulation 91**

**38.** In regulation 91(5) (Dual capacity membership: death benefits), after sub-paragraph (h) insert—

“(hh) regulation 86A (Pension payable when member dies on or after age 75);”.

### **Amendment of regulation 98**

**39.** In regulation 98 (Calculating amounts of transfer value payments), for paragraphs (1) and (2) substitute—

“(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the Department in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(8). This is subject to paragraphs (2), (3) and (5).

(2) Before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, the Department shall take advice from the Scheme actuary.”.

### **Amendment of regulation 100**

**40.**—(1) Regulation 100 (Right to apply for acceptance of transfer value payment from another scheme) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (2)(a), after “scheme” insert “other than a corresponding health service scheme”.

(3) For paragraph (2)(d) substitute—

“(d) a corresponding 1995 scheme, and

(e) a corresponding 2008 scheme.”.

(4) After paragraph (2) insert—

(2A) A member who makes an application for a transfer value to be accepted by the Department in respect of his rights under a corresponding 2008 scheme may not also make an application for a transfer value to be accepted in respect of his rights under a corresponding 1995 scheme.”;

(5) In paragraph (4)(a)(ii), for “purposes of that Act” substitute “purposes of the Finance Act 2004”.

### **Amendment of regulation 101**

**41.**—(1) Regulation 101 (Procedure for applications under regulation 100) is amended as provided by paragraphs (2) to (4).

(2) In paragraph (1)(d)(ii), after “those arrangements” insert “(including a transfer of rights from a corresponding 1995 scheme)”.

(3) In paragraph (2), for “a such a” substitute “such a”.

(4) After paragraph (2) add—

“(3) A statement given to the member of a corresponding 1995 scheme in pursuance of such a request as is mentioned in paragraph (1)(d) must inform the member of the amount of pensionable service that will count under this Scheme for the purposes of—

(a) calculating benefits payable to or in respect of the member; and

(b) determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8.”.

### **Amendment of regulation 102**

**42.** In regulation 102 (Acceptance of transfer value payments), after paragraph (3) insert—

“(3A) If the Department accepts the payment from the member of a corresponding 1995 scheme, the relevant period of pensionable service shall count when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8.

(3B) In paragraph (3A) “the relevant period” means the period calculated in accordance with regulation 103.”.

### **Amendment of regulation 103**

**43.**—(1) Regulation 103 (Calculation of transferred-in pensionable service) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (6), for “corresponding health service scheme” substitute “corresponding 2008 scheme”.

(3) Omit paragraph (7).

### **Insertion of new regulation 108A**

**44.** After regulation 108 (EU and other overseas transfers), insert—

#### *“Transfers across*

#### **Transfers across from the HPSS Superannuation Scheme 1995**

**108A.**—(1) An active member who is entitled to have a cash equivalent value calculated in respect of the entirety of the member’s rights under the HPSS Superannuation Scheme 1995, pursuant to regulation 59 of the 1995 Regulations, may apply to convert that cash equivalent value into rights under this Scheme.

(2) An application under paragraph (1)—

- (a) must be made in writing using an application form provided for the purpose by the Department;
- (b) may only be made before the end of the period of three months beginning with the guarantee date established under regulation 59 of the 1995 Regulations;
- (c) may only be made if the member has first been furnished with a statement of the pensionable service that the member will be entitled to count under this Scheme if the application is accepted by the Department;
- (d) must meet such other conditions as the Department may require; and
- (e) is irrevocable.

(3) The statement mentioned in paragraph (2)(c) must—

- (a) inform the member of the amount of pensionable service that will count under this Scheme for the purposes of calculating benefits payable to or in respect of the member;
- (b) inform the member of the amount of pensionable service that will count under this Scheme when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8; and
- (c) be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose.

- (4) If the Department accepts an application under paragraph (1)—
  - (a) the member is entitled to count under this Scheme the periods of pensionable service mentioned in sub-paragraphs (a) and (b) of paragraph (3) for the purposes specified therein; and
  - (b) those periods of pensionable service shall be credited to the member on the day that the Department received the member’s application.”.

**Amendment of regulation 116**

45. For regulation 116 (Information), substitute—

- “(1) A person who becomes an employed pensioner must—
  - (a) inform the person’s employer in the new employment and any other person that the Department may specify that the old service pension is payable; and
  - (b) where requested, provide any information about their relevant income in the new employment to the Department or to any other person that the Department may specify.
- (2) A person who ceases to be an employed pensioner in one new employment and becomes an employed pensioner in another new employment must—
  - (a) inform the person’s employer in the other new employment, and any other person that the Department may specify, that the old service pension is payable; and
  - (b) where requested, provide any information about their relevant income in the other new employment to the Department or to any person that the Department may specify.
- (3) In this regulation “relevant income” has the same meaning as in regulation 118.”.

**Amendment of regulation 119**

46. In regulation 119(1) (Meaning of “previous pay”: general), for “regulation 120” substitute “regulations 120 and 121”.

**Amendment of regulation 121**

47. In regulation 121 (Application of this chapter to part-time employment), for paragraph (2) substitute—

- “(2) The amount of the employed pensioner’s reckonable pay for the purposes of the old service pension, as referred to in regulation 119(1)(a), shall be determined without reference to regulation 18 or 19 (reckonable pay for non-concurrent and concurrent part-time workers).”.

**Amendment of regulation 125**

48. For regulation 125 (Claims for benefits), substitute—

- “(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(9).”

### **Amendment of regulation 130**

49. In regulation 130(5)(c) (Forfeiture of rights to benefits), after “87(3)” insert “or (10)”.

### **Amendment of regulation 132**

50.—(1) Regulation 132(5) (Interest on late payment of benefits and refunds of contributions) is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (b), after “member’s death” insert “, other than a pension payable under regulation 86A (Pension payable when member dies on or after reaching age 75)”.

(3) After sub-paragraph (e) add—

“; 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.”

### **Amendment of regulation 136**

51.—(1) Regulation 136 (Employing authority record keeping and contribution estimates) is amended as provided by paragraphs (2) and (3).

(2) In the heading to that regulation, after “employing authority” insert “and certain members”.

(3) In paragraph (1), for “the host” substitute “each relevant host”.

### **Amendment of regulation 137**

52. In regulation 137 (Interpretation of Part 3: general)—

(a) before the definition of “corresponding health service scheme” insert—

““corresponding 1995 scheme” means a corresponding health service scheme, the provisions of which the Department has determined correspond to the provisions of the 1995 Regulations;

“corresponding 2008 scheme” means a corresponding health service scheme, the provisions of which the Department has determined correspond to the provisions of these Regulations;”;

- (b) for the definition of “corresponding health service scheme” substitute—

““corresponding health service scheme” means—

- (a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972(10) and having effect in England, Wales and Scotland,
- (b) a scheme made under section 2 of the Superannuation Act 1984(11) (an Act of Tynwald) applies, and
- (c) any other occupational pension scheme approved for the purposes of this regulation by the Department;”;

- (c) after the definition of “GDS provider” insert—

““general ophthalmic services” has the meaning given by regulation 2(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007(12);”;

- (d) after the definition of “GMS practice” insert—

““GOS arrangements” has the meaning given by regulation 13 of General Ophthalmic Services Regulations (Northern Ireland) 2007;”;

- (e) for the definition of “host Board” substitute—

““host Board”, in respect of a person who is a registered medical practitioner or non-GP provider who is—

- (a) a partner in a partnership—
  - (i) that is a GMS practice, or
  - (ii) that is an APMS contractor that has entered into an APMS contract for the provision of primary medical services;
- (b) a shareholder in a company limited by shares that is a GMS practice or an APMS contractor that has entered into an APMS contract for the provision of primary medical services;
- (c) an individual who is a GMS practice or an APMS contractor,

means the Health and Social Services Board with which that partnership (in the case of paragraph (a)), company (in the case of paragraph (b)) or practice or contractor (in the case of paragraph (c)) has entered into an agreement or contract referred to in those provisions and (in the case of a registered medical practitioner) the relevant Board on whose medical performers' list that practitioner's name appears, and such a person shall be deemed to be employed by the appropriate Board for the purposes of this Part;”;

- (f) for definition of “OOH services” substitute—

““OOH services” means services which are required to be provided in the out of hours period and which, if provided during core hours by a GMS practice or APMS contractor to patients to whom the practice or contractor is required by its GMS contract or APMS contract to provide essential services, would be or would be similar to essential services;”;

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(10) 1972 c. 11

(11) 1984 c. 8 (Tynwald)

(12) S.R. 2007 No. 436

- (g) after the definition of “OOH services” insert—
- ““ophthalmic provider” means a registered medical practitioner who is included in an ophthalmic list kept and published by the Agency pursuant to regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007 (ophthalmic list);”;
- (h) for the newly inserted definition of “ophthalmic provider”, substitute—
- ““ophthalmic provider” means a registered medical practitioner who is included in an ophthalmic performers list kept by the Agency pursuant to regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007 and is a party to GOS arrangements;”;
- (i) in the definition of “practitioner”, in paragraph (a) after “a registered medical practitioner” insert “or ophthalmic provider,”.

### **Amendment of regulation 139**

- 53.** In regulation 139 (Meaning of “pensionable service”), after paragraph (8) add—

“(9) Where a member is also a member of the HPSS Superannuation Scheme 1995 any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LSS$$

where—

SP is the shorter period, measured in years and days, and

LSS is the length of superannuable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the HPSS Superannuation Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

### **Amendment of regulation 140**

**54.**—(1) Regulation 140 (Pensionable service: breaks in service) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (2)—

- (a) for “Subject to paragraph (5), a” substitute “A”;
- (b) for “Scheme” substitute “Scheme under regulation 160 in respect of the period of absence”.

(3) For paragraph (3) substitute—

“(3) If a member is on leave of absence but does not fall within paragraph (1)(a) to (e), and contributes to the Scheme under regulation 160 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 6 months commencing with the first day of the member’s leave of absence, 6 months; and
- (b) where the member contributes for a continuous period of less than 6 months commencing with the first day of the member’s leave of absence, the period in respect of which the member pays those contributions.

(3A) If, having paid contributions for the period mentioned in paragraph (3)(a) a member remains on a leave of absence that does not fall within paragraph (1)(a) to (e) and contributes to the Scheme both member contributions under regulation 160 and employer contributions under regulation 162 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), 18 months; and
- (b) where the member contributes for a continuous period of less than 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), the period in respect of which the member pays those contributions.”.

#### **Amendment of regulation 141**

**55.**—(1) Regulation 141 (Meaning of “qualifying service”), is amended as provided by paragraphs (2) to (4).

(2) In paragraph (1)(b), after “pension arrangement” insert “(including the HPSS Superannuation Scheme 1995)”.

(3) After paragraph (1)(d) add—

“(e) in the case of a person—

- (i) who is eligible to join the Scheme by virtue of regulation 153(5)(c), and
- (ii) for whom the interval between leaving the HPSS Superannuation Scheme 1995 and joining the Scheme is less than one month,

a period equal to the period of qualifying service (within the meaning of the 1995 Regulations), measured in years and days, that the member was entitled to count under regulation 5 of the 1995 Regulations when the member left that scheme.”.

(4) After paragraph (3) add—

“(4) For the other rules applying where there is a short break in service, see regulation 142.”.

#### **Amendment of regulation 143**

**56.** In regulation 143(2)(a)(vi) (Meaning of “pensionable earnings”), after “OOH provider” insert “or other employing authority providing OOH services”.

#### **Amendment of regulation 144**

**57.**—(1) Regulation 144 (Pensionable earnings breaks in service) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (2)(a), for “regulation 160” substitute “regulations 160 and 161”.

(3) After paragraph (9) add—

“(10) For the purposes of making contributions to the Scheme under regulations 160 and 162, during any period of absence which counts as pensionable service under regulation 140(3) or (3A), amounts equal to the rate of the member’s pensionable earnings calculated as described in paragraph (3)(a) or (b) will be treated as pensionable earnings.”.

### **Amendment of regulation 153**

**58.**—(1) Regulation 153(5) (Eligibility: general), is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (d) omit the words from “but this sub-paragraph” to “the 1995 Regulations”.

(3) After sub-paragraph (d) add—

“(e) the person—

(i) ceased to be an active member of the HPSS Superannuation Scheme 1995 on leaving HSC employment,

(ii) became a deferred member of that Scheme on leaving that employment and has not become a pensioner member of that Scheme between the date of leaving that employment and joining the Scheme, and

(iii) re-entered HSC employment on or after 1st October 2008 and 5 or more years since last leaving HSC employment; or

(f) the person—

(i) ceased to be an active member of the HPSS Superannuation Scheme 1995 before 1st April 2008 on leaving HSC employment,

(ii) became a deferred member of that Scheme on leaving that employment,

(iii) re-entered HSC employment on or after 1st October 2008 and 5 or more years since last leaving HSC employment, and

(iv) before the person re-entered such employment—

(aa) a transfer payment was made in respect of the person under Part VI of that Scheme, or

(bb) the person made an application under regulation 54 of that Scheme (Exercising a right to transfer or buy-out) from which the person may not withdraw,

but sub-paragraphs (d) to (f) will not apply if the Department has permitted such a person to rejoin the HPSS Superannuation Scheme 1995 in the circumstances described in regulation 7(3) of the 1995 Regulations .”.

### **Amendment of regulation 154**

**59.** In regulation 154 (Restrictions on eligibility: general), for paragraph (1)(b) substitute—

“(b) became a pensioner member of that Scheme on or after that date; or

(c) is a deferred member of that Scheme, but is not a deferred member—

(i) to whom regulation 153(5)(e) or (f) applies, and

(ii) in respect of whom permission of the Department to rejoin the HPSS Superannuation Scheme 1995 has not been granted pursuant to regulation 7(3) of that Scheme.”.

### **Amendment of regulation 157**

**60.**—(1) Regulation 157(7) (Opting out of the scheme) is amended as provided by paragraphs (2) and (3).

(2) After “contribute to the Scheme” insert “in respect of one or more employments as a practitioner under this Part must do so”.

(3) Before “may” insert “but”.

### **Amendment of regulation 161**

**61.**—(1) Regulation 161 (Members' contribution rate) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (3), after “may” insert “, with the consent of the Department of Finance and Personnel,”.

(3) In the full-out words of paragraph (8), for “paragraph (6) in respect of the earlier service” substitute “paragraph (12) in respect of the earlier dentist performer service”.

(4) In the full-out words of paragraph (9), for “paragraph (6) in respect of the earlier service” substitute “regulation 28 in respect of the earlier officer service”.

(5) In the full-out words of paragraph (14), for “paragraph (12) in respect of the earlier service” substitute “paragraph (6) in respect of the earlier service as a practitioner (other than a dentist performer)”.

### **Amendment of regulation 162**

**62.** In regulation 162 (Contributions by employing authorities: general), for paragraph (2) substitute—

“(2) In specifying such a rate, the Department must—

- (a) obtain the consent of the Department of Finance and Personnel; and
- (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971<sup>(13)</sup> and Article 69 of the Social Security Pensions (Northern Ireland) Order 1975<sup>(14)</sup>.”.

### **Amendment of regulation 181**

**63.** In the heading to regulation 181 (Increase in pensionable earnings following exercise of option under regulation 180), for “pensionable earnings” substitute “level of engagement”.

### **Amendment of regulation 183**

**64.** In regulation 183 (Re-assessment of entitlement to an ill-health pension determined under regulation 182), for paragraph (2)(a) substitute—

- “(a) in the case of a member who does not engage in further HSC employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the end of that period;
- (aa) in the case of a member who does engage in further HSC employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the first anniversary of the day on which that employment commences or before the end of that period if sooner.”.

### **Amendment of regulation 184**

**65.**—(1) Regulation 184 (Early retirement on ill-health (deferred members)) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(a), before “incapable” insert “permanently”.

(3) In paragraph (2)(a)(ii), for “impairment” substitute “infirmity”.

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<sup>(13)</sup> 1971 c. 35 (N.I.)

<sup>(14)</sup> S.I. 1975/1503 (N.I. 15)

### **Amendment of regulation 203**

66. In regulation 203(2) (Amount of children’s pension under regulation 201: deceased active members), for “paragraphs (6) and (7)” substitute “paragraphs (5) and (6)”.

### **Insertion of new regulation 213A**

67. After regulation 213 (Amount of lump sum: pension credit members), insert—

#### **“Pension payable when member dies on or after reaching age 75**

**213A.**—(1) If a pensioner member or a pension credit member dies—

- (a) on or after reaching age 75; and
- (b) before the fifth anniversary of the date on which the member’s pension became payable,

an annual pension, calculated in accordance with paragraph (2), may be payable from the day following the date of the member’s death until the anniversary referred to in sub-paragraph (b).

(2) The pension payable under paragraph (1) is determined by—

- (a) calculating the amount of the lump sum that would have been payable to the pensioner member or pension credit member under regulation 210(2) or, as the case may be, 213 as if on the day the member died the member had not reached the age of 75; and
- (b) converting any amount determined in sub-paragraph (a) to an annual pension payable for the period specified in paragraph (1), by reference to guidance and tables provided by the Scheme actuary for the purpose.

(3) The “beginning date” of the pension calculated in paragraph (2) will, for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971, be the day immediately following the date of death of the pensioner member or pension credit member.

(4) The pension calculated under this regulation will be payable in accordance with regulation 214.”.

### **Amendment of regulation 214**

68.—(1) Regulation 214 (Payment of lump sums on death) is amended as provided by paragraphs (2) to (7).

- (2) In the heading to that regulation, after “lump sums” insert “or pensions”.
- (3) In paragraph (1), after “regulation 209” insert “or a pension payable under regulation 213A”.
- (4) In paragraph (2)—
  - (a) after “lump sum” insert “or pension”; and
  - (b) for “under paragraph (4) or (6)” substitute “or body under paragraph (4), (6) or (10)”.
- (5) In paragraphs (3), (4) and (6), after “lump sum” in each paragraph insert “or pension”.
- (6) In paragraph (7), after “lump sum” in each place insert “or pension”.
- (7) After paragraph (9), add—
  - “(10) The member’s personal representatives may, as part of the distribution of the member’s estate, give irrevocable notice to the Department—
    - (a) specifying—

- (i) one or more individuals, or
  - (ii) one incorporated or unincorporated body,
- to whom the benefit of the pension under regulation 213A from the date of receipt of the notice by the Department is to be assigned; and
- (b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,
- and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.
- (11) This paragraph applies if—
    - (a) the person specified in the notice has died before the payment can be made;
    - (b) payment to that person or body is not, in the opinion of the Department, reasonably practicable; or
    - (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation 254 (4) (Forfeiture of rights to benefit) and the Department has directed, as a consequence of that conviction, that the person’s right to a payment in respect of the member’s death is forfeited.
  - (12) The prohibition on assignment of benefits in regulation 259 (Prohibition on assignment or charging of benefits) shall not apply to an assignment by personal representatives under this regulation.”.

#### **Amendment of regulation 218**

**69.** In regulation 218(5) (Dual capacity membership: death benefits), after sub-paragraph (h) insert—

“(hh) regulation 213A (Pension payable when member dies on or after age 75);”.

#### **Amendment of regulation 225**

**70.** In regulation 225 (Calculating amounts of transfer value payments), for paragraphs (1) and (2) substitute—

“(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the Department in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(15).

This is subject to paragraphs (2), (3) and (5).

(2) Before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, the Department shall take advice from the Scheme actuary.”.

#### **Amendment of regulation 227**

**71.—**(1) Regulation 227 (Right to apply for acceptance of transfer value payment from another scheme) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (2)(a), after “scheme” insert “other than a corresponding health service scheme”.

(3) For paragraph (2)(d) substitute—

“(d) a corresponding 1995 scheme; and

- (e) a corresponding 2008 scheme.”.
- (4) After paragraph (2) insert—
  - “(2A) A member who makes an application for a transfer value to be accepted by the Department in respect of his rights under a corresponding 2008 scheme may not also make an application for a transfer value to be accepted in respect of his rights under a corresponding 1995 scheme.”.
- (5) In paragraph (4)(a)(ii), for “purposes of that Act” substitute “purposes of the Finance Act 2004”.

#### **Amendment of regulation 228**

**72.**—(1) Regulation 228 (Procedure for applications under regulation 227), is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)(d)(ii), after “those arrangements” insert “(including a transfer of rights from a corresponding 1995 scheme)”.

(3) After paragraph (2) add—

“(3) A statement given to the member of a corresponding 1995 scheme in pursuance of such a request as is mentioned in paragraph (1)(d) must inform the member of the amount of pensionable service that will count under this Scheme for the purposes of—

- (a) calculating benefits payable to or in respect of the member; and
- (b) determining whether or not the member has reached 45 years of pensionable service for the purpose of regulation 139.”.

#### **Amendment of regulation 229**

**73.** In regulation 229 (Acceptance of transfer value payments), after paragraph (3) insert—

“(3A) If the Department accepts the payment from the member of a corresponding 1995 scheme, the relevant period of pensionable service shall count when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 139.

(3B) In paragraph (3A) “the relevant period” means the period calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose, having regard to the period of employment that qualified the member for the rights in the corresponding 1995 scheme.”.

#### **Amendment of regulation 230**

**74.**—(1) Regulation 230 (Calculation of transferred-in pensionable service) is amended as provided by paragraphs (2) to (7).

(2) For paragraph (2) substitute—

“(2) Subject to paragraph (4), for the purposes of the calculation under paragraph (1), the benefits in respect of the transfer payment will be calculated by increasing the member’s pensionable earnings for—

- (a) the financial year in which the member joined the Scheme; or
- (b) the financial year in which the transfer payment is received if the payment is received more than 12 months after the member joined the Scheme.”.

(3) In paragraph (3)(b), for “final year’s pensionable” substitute “reckonable”.

(4) In paragraph (3)(c), for “final year’s pensionable” substitute “reckonable”.

- (5) In paragraph (4), for “paragraph (3)” substitute “paragraph (2)(b)”.
- (6) In paragraph (6), for “corresponding health service scheme” substitute “corresponding 2008 scheme”.
- (7) Omit paragraph (7).

### **Insertion of new regulation 235A**

75. After regulation 235 (EU and other overseas transfers), insert—

*“Transfers across*

#### **Transfers across from the HPSS Superannuation Scheme 1995**

**235A.**—(1) An active member who is entitled to have a cash equivalent value calculated in respect of the entirety of the member’s rights under the HPSS Superannuation Scheme 1995, pursuant to regulation 59 of the 1995 Regulations, may apply to convert that cash equivalent value into rights under this Scheme.

- (2) An application under paragraph (1)—
  - (a) must be made in writing using an application form provided for the purpose by the Department;
  - (b) may only be made before the end of the period of three months beginning with the guarantee date established under regulation 59 of the 1995 Regulations;
  - (c) may only be made if the member has first been furnished with a statement of the pensionable service and increase in pensionable earnings that the member will be entitled to count under this Scheme if the application is accepted by the Department;
  - (d) must meet such other conditions as the Department may require; and
  - (e) is irrevocable.
- (3) The statement mentioned in paragraph (2)(c) must—
  - (a) inform the member of the amount of increase in pensionable earnings that will count under this Scheme for the purposes of calculating benefits payable to or in respect of the member; and
  - (b) inform the member of the amount of pensionable service that will count under this Scheme when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 139.
- (4) The amount of the increase in pensionable earnings mentioned in paragraph (3)(a) will be calculated by—
  - (a) treating the member as entitled to a period of officer service equal to the period of employment that qualified the member for the rights in the HPSS Superannuation Scheme 1995;
  - (b) calculating the reckonable pay that would have given rise to a cash equivalent in respect of that officer service under regulation 98 (Calculating amounts of transfer value payments); and
  - (c) increasing the member’s pensionable earnings by an amount equal to the pensionable pay that the member would have received during that period of officer service if the member’s pensionable pay had been equal to the reckonable pay mentioned in sub-paragraph (b) throughout that period.

(5) The amount of pensionable service mentioned in paragraph (3)(b) will be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose, having regard to the period of employment that qualified the member for the rights in the HPSS Superannuation Scheme 1995.

(6) If the Department accepts an application under paragraph (1)—

- (a) the member is entitled to count under this Scheme the period of pensionable service mentioned in paragraph (3)(b) for the purpose specified therein;
- (b) that period of pensionable service shall be credited to the member on the day that the Department received the member's application;
- (c) the member is entitled to count the increase in pensionable earnings calculated under paragraph (4) for the purposes of calculating benefits payable to or in respect of the member under this Scheme; and
- (d) that increase in pensionable earnings shall be credited to the member in the financial year during which the day that the Department received the member's application falls.”.

#### **Amendment of regulation 242**

76. For regulation 242 (Information), substitute—

“(1) A person who becomes an employed pensioner must—

- (a) inform the person's employer in the new employment, and any other person that the Department may specify, that the old service pension is payable; and
- (b) where requested, provide any information about their relevant income in the new employment to the Department or to any other person that the Department may specify.

(2) A person who ceases to be an employed pensioner in one new employment and becomes an employed pensioner in another new employment must—

- (a) inform the person's employer in the other new employment, and any other person that the Department may specify, that the old service pension is payable; and
- (b) where requested, provide any information about their relevant income in the new employment to the Department or to any other person that the Department may specify.

(3) In this regulation “relevant income” has the same meaning as in regulation 244.”.

#### **Amendment of regulation 249**

77. For regulation 249 (Claims for benefits), substitute—

“(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(16).”.

#### **Amendment of regulation 254**

**78.** In Regulation 254(5)(c) (Forfeiture of rights to benefits) after “214(3)” insert “or (10)”.

#### **Amendment of regulation 256**

**79.**—(1) Regulation 256(5) (Interest on late payment of benefits and refunds of contributions) is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (b), after “member’s death” insert “, other than a pension payable under regulation 213A (Pension payable when member dies on or after reaching age 75)”.

(3) After sub-paragraph (e) add—

“; and

- (f) in the case of an amount in respect of a pension under regulation 213A that is payable to—
- (i) the member’s personal representatives, the date on which probate or letters of administration were produced to the Department, and
  - (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 214(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.”.

#### **Amendment of regulation 260**

**80.** For regulation 260(1) (Employing authority and certain member record keeping and contribution estimates) substitute—

“(1) As regards a member who is a principal medical practitioner, in respect of each financial year—

- (a) the member shall provide each relevant host Board with a certificate of their pensionable earnings based on—
  - (i) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which the member is a member, and
  - (ii) the return that member has made to Her Majesty’s Revenue & Customs in respect of their earnings for that year,

no later than 1 month from the date on which that return was required to be submitted to Her Majesty’s Revenue & Customs;
- (b) a host Board shall forward to the Department a copy of the records maintained under regulation 164(17)(b) within 1 month of the end of the financial year

immediately following the financial year to which the return in paragraph (1)(a) (ii) relates.”.

### **Amendment of regulation 262**

**81.** In regulation 262 (Interpretation: general), for the definition of “principal medical practitioner” substitute—

““principal medical practitioner” has the same meaning as in Part 3;”.

### **Amendment of regulation 275**

**82.** In regulation 275 (Pensionable service limit), after paragraph (4) add—

“(5) Where a member is also a member of the HPSS Superannuation Scheme 1995, any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LSS$$

where—

SP is the shorter period, measured in years and days, and

LSS is the length of superannuable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the HPSS Superannuation Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

### **Amendment of regulation 276**

**83.** In regulation 276 (Applications, claims and notices), for the table substitute—

<i>“Column 1 Regulation in Part 2</i>	<i>Column 2 Regulation in Part 3</i>
45	176
52	182
54	184
58	185
59	186
62	189
68	195
87	214
94	221
95	222”