

## EXPLANATORY MEMORANDUM TO

### 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

2010 No. 22

#### 1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany SR 2010 No.22 which is laid before the Northern Ireland Assembly.
- 1.2 The statutory rule is made under Articles 12(1), (2), 14(1), (2) and (3) and 19 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.
- 1.3 The rule is due to come into operation on 26 February 2010 with retrospective effect from 1 October 2009.
- 1.4 Regulations 7, 8, 19(4), 62, 87(2) and 107 make amendments with retrospective effect from 1 April 2008.
- 1.5 Regulations 3, 4(a), 14, 16(b) and (d), 33(2), 56(3) and (5)(b) and 74(2) make amendments with retrospective effect from 1 April 2009.

#### 2. Purpose

- 2.1 This rule amends four statutory rules relating to pension and benefits provided to Health and Social Care staff.
  - Part 2 of the SR amends the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (SR 1995 No.95) **(the 1995 Section)**
  - Part 3 of the SR amends the Health and Social Care (Pension Scheme) Regulations 2008 (SR 2008 No.256) **(the 2008 Section)**
  - Part 4 of the SR amends the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983 (SR 1983 No.155)
  - Part 5 of the SR amends the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999 (SR 1999 No.294)
  - Part 6 of the SR provides an option to persons detrimentally affected by these regulations to elect for those provisions not to apply in certain circumstances

2.2 The main purpose of the Statutory Rule is to allow eligible members of the 1995 Section of the Scheme (those with a protected Normal Pension Age (NPA) of 60 or 55) to choose whether to transfer all their service to the 2008 Section or to remain a member of the 1995 Section of the HSC Pension Scheme.

The Choice to move to the 2008 Section of the HSC Pension Scheme will be offered to members who are active in the 1995 Section on or after 1 October 2009. The Scheme administrators (The HSC Pension Service of the Regional Business Services Organisation) will run an exercise over a four month period to offer this opportunity to approximately 52,000 scheme members (“the pension choice exercise”).

2.3 This rule also:-

- introduces a refinement to the calculation of benefits where a practitioner is entitled to both career average and final salary benefits
- makes various miscellaneous amendments to clarify the working of certain regulations
- makes technical changes to terminology to clarify that there is one HSC Pension Scheme that comprises two sections, and
- amends the calculation of additional periods of service for those who are made redundant on or after 1 October 2009 but before 1 October 2011
- amends an incorrect reference in the definition of employing authority

### **3. Background**

These changes follows on from the reforms already introduced as a result of the review of the NHS Pension Scheme in England & Wales, which aims to ensure long-term affordability of pension provision. In particular the introduction of a new Section of the HSC Pension Scheme for new entrant HSC staff from 1 April 2008.

### **4. Consultation**

4.1 The Department consulted, as required under Article 12(4) of the Superannuation (Northern Ireland) Order 1972, with representatives of persons likely to be affected by the provisions of this rule. Consultation began on the 27 August 2009 and ended on 30 September 2009. Amongst those consulted were HSC Staff Side representatives, HSC Employers and the HSC Pension Service.

4.2 No responses were received.

### **5. Equality Impact**

The Department concluded that the new arrangements were not likely to have a significant impact on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998 and therefore a full EQIA was not recommended.

## **6. Regulatory Impact**

A Regulatory Impact Assessment has not been produced for this rule as it has no impact on the costs of business, charities or the voluntary sector.

## **7. Financial Implications**

None

## **8. Section 24 of the Northern Ireland Act 1998**

Legal advice confirms that the provisions of this rule comply with section 24 of the Northern Ireland Act 1998.

## **9. EU Implications (where appropriate)**

Not appropriate.

## **10. Parity or Replicatory Measure**

It is general policy to mirror arrangements in GB in relation to pensions legislation. This rule mirrors The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2009 (S.R. 2009/2446) for NHS employees in England and Wales. Similar provisions will also be provided for NHS employees in Scotland.

## **11. Additional Information**

Phil McCusker at the Department of Health, Social Services and Public Safety; (email [phil.mccuskerr@dhsspsni.gov.uk](mailto:phil.mccuskerr@dhsspsni.gov.uk)) will answer any queries regarding this rule.

## **12. Changes made by this Statutory Rule**

### **The calculation of mixed final salary and career average benefits for practitioner members**

12.1 Benefits are provided for general practitioners based on a percentage of their uprated earnings throughout their time in practice. However, most general practitioners also accrue benefits on a final salary basis as the result of work undertaken in a hospital setting. The current regulations make specific provisions for the calculation of final retirement benefits in these circumstances to ensure that moves between the final salary and career average regimes, in otherwise unbroken membership, do not devalue the benefits for earlier periods of membership.

The amendments contained in this SR supplement those provisions by enhancing the indexation of final salary benefits in certain circumstances and those amendments are explained in more detail at 12.5.

### **Miscellaneous and technical amendments**

12.2 In order to better differentiate between the 1995 and the 2008 Pension Scheme regulations, references have been changed throughout both sets of regulations so that they refer to the 1995 Section and the 2008 Section of the HSC Pension Scheme. More detail is provided at paragraph 12.6.

12.3 This amending SR also makes further technical and consequential changes to the 1995 and 2008 Pension Scheme Regulations (see 12.6), the Health and Personal Social Services (Compensation for Premature Retirement) Regulations 1983 (see 14), and the Health and Personal Social Services (Additional Voluntary Contributions) Regulations 1999 (see 14).

### **Amendments relating to the Pensions Choice Exercise in detail**

12.4 (1) Two new Chapters have been inserted into the Health and Social Care (Pension Scheme) Regulations 2008 (SR 2008 No. 256) which contain specific provisions covering the choice 1995 Section members will have and the transitional arrangements for such members who decide to move all their benefits to the 2008 Section of the Scheme.

- **Amending regulation 55** inserts **Chapter 10 of Part 2** (2008 Section Optants) and covers members who are entitled to final salary benefits
- **Amending regulation 99** inserts **Chapter 10 of Part 3** (2008 Section Optants) and covers members who are entitled to career average benefits.

(2) A summary of the regulations contained in these two new chapters and the consequential amendments inserted elsewhere in the 2008 Regulations is provided below.

**Regulation 136A - Application of Chapter 10 of Part 2**  
**Regulation 260A - Application of Chapter 10 of Part 3**

(3) These regulations introduce the new Chapters confirming that they apply to 1995 Section members who are active on or after 1 October 2009 and who opt to join the 2008 Section. 1995 Section members specifically excluded are those in receipt of an enhanced ill health pension paid under provisions that have now been discontinued and members who have previously declined an option to join the 2008 Section of a 'sister' Health Service Scheme (England & Wales, Scotland and the Isle of Man).

**Amendments made elsewhere as a consequence of new Chapter 10 of Parts 2 and 3 are as follows:**

**Amending regulation 16** inserts a definition of "2008 Section Optant" into regulation 6 (Interpretation: general)

**Amending regulation 56** inserts a definition of "2008 Section Optant" into regulation 137 (Interpretation of Part 3: general)

**Regulation 136B - Options for 1995 Section members to join this Section of the Scheme under Chapter 10 of this Part**

**Regulation 260B - Options for 1995 Section members to join this Section of the Scheme under Chapter 10 of this Part**

(4) These regulations deal with the process, time limits and the effective date of an option to join the 2008 Section. Eligible members will be provided with a comparative statement of benefits under both the 1995 Section and the 2008 Section. Members must be active in the 1995 Section on the date their decision is notified to the Department and must make their decision by the return date on their statement. The return date will be at least four months from the date the statement is sent to the member and, where the statement is sent via the member's employer, the member must have at least three months in which to consider their decision. The Department may extend the time limits. Members who are in the process of retiring may opt to delay the payment of benefits whilst considering whether to join the 2008 Section and may make their decision after they have left the Scheme. (Members who have applied for ill health retirement benefits are covered specifically by regulations 136S and 260T).

If a member chooses to join the 2008 Section the option will be effective from 1 April 2008 and the member will be treated as if they had been a member of the 2008 Section from that date.

**Amendments made elsewhere as a consequence of 136B and 260B are as follows:**

**Regulation 17** amends 7 (Meaning of “pensionable service”)

**Regulation 57** amends 139 (Meaning of “pensionable service”)

Service an Optant is entitled to count under new Chapter 10 of Part 2 and/or Chapter 10 of Part 3 is included in the meaning of pensionable service.

**Regulation 18** amends 10 (Meaning of “qualifying service”)

**Regulation 58** amends 141 (Meaning of “qualifying service”)

Service an Optant is entitled to count as qualifying service under new Chapter 10 of Part 2 and/or Chapter 10 of Part 3 is included in the meaning of qualifying service.

**Regulation 21(1)** amends 21A (Eligibility: transitional)

**Regulation 63(1)** amends 153A (Eligibility: transitional)

2008 Section Optants are permitted to be members of the 2008 Section.

**Regulation 59** amends 143 (Meaning of pensionable earnings)

Adds any “pensionable earnings” the practitioner is entitled to count under Chapter 10 of Part 3 (2008 Section Optants), to the earnings a principal practitioner is entitled to count under the 2008 Section for benefit purposes.

**Regulation 61** amends 149 (Meaning of pensionable earnings in relation to other practitioners).

Adds any “pensionable earnings” the practitioner is entitled to count under Chapter 10 of Part 3 (2008 Section Optants), to the earnings other (assistant) practitioners are entitled to count under the 2008 Section for benefit purposes.

**Regulation 136C Service credited from the 1995 Section**

**Regulation 260C Service and pensionable earnings credited from the 1995 Section**

(5) This regulation provides for the terms on which service in the 1995 Section up to and including 31 March 2008 (excluding added years and Mental Health Officer doubled years and transfers in for members who joined the 1995 Section after 1 April 2008) will transfer to the 2008 Section.

A 2008 Section Optant will be entitled to count:

- a period of “qualifying service” equal in length to their 1995 Section qualifying service up to 31.3.2008 (maximum 45 years), and

if the Optant is under age 60 on 1.10.2009,

- a period of “pensionable service” or “pensionable earnings” (in the case of a practitioner member) equal in length to their 1995 superannuable service or earnings up to 31.3.2008,

**or**

where the Optant is age 60 or over on 1.10.2009,

- a period of “pensionable service” or “pensionable earnings” (in the case of a practitioner member) equal in length to their 1995 Section superannuable service or earnings up to 31.3.2008, multiplied by an actuarial factor that will reduce the period of service or earnings.

The amount by which the period of service or earnings are reduced will depend on the member’s age in years and months on 1.10.2009. 1995 Section service that was part-time will count in the 2008 Section at its whole-time equivalent length, in accordance with regulation 78 of the 1995 Section. If a member becomes a 2008 Section Optant, all rights under the 1995 Section of the Scheme will be extinguished.

**Amendments made elsewhere as a consequence of 136C and 260C are as follows:**

**Regulation 19** amends 15 (Meaning of “reckonable pay”)

Excludes the pensionable service the member is entitled to count under 136C for the purposes of calculating “reckonable pay”

## **Regulation 136D and 260D**

### **“Treatment of Additional Pension”**

(6) New arrangements to buy amounts of ‘additional pension’ (AP) by paying additional voluntary contributions (AVCs) were introduced into both the 1995 and the 2008 Section from 1 April 2008. All AP contracts that 2008 Section Optants have started in the 1995 Section will transfer **automatically** to the 2008 Section. The cost and general procedures involved for buying AP are the same in either Section but, because of the earlier normal pension age in the 1995 Section (60), members are able to buy AP in that Section priced for payment at that age. This means that some adjustments are required to take account of the later normal retirement age (65) in the 2008 Section. In these circumstances:

- if all AVCs to complete the purchase have been paid - the amount of pension purchased (for payment at 65 instead of 60) will increase, or

- if contributions are still being made, these will reduce to secure exactly the same amount of AP that the member contracted to buy (for payment at 65 instead of 60)

In some circumstances this adjustment may result in a purchase that is larger than the permitted maximum. If this happens the member will receive an actuarial increase to their main Scheme pensionable service (or pensionable earnings for a practitioner), to the value of the 'excess' AP payment made.

**Amendments made elsewhere as a consequence of 136D and 260D are as follows:**

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 136D.” is inserted by-**

**Regulation 23** at paragraph (9) of 34 (Member's option to pay additional periodical contributions to purchase additional pension)

**Regulation 24** at paragraph (7) of 36 (Member's option to pay lump sum contribution to purchase additional pension),

**Regulation 25** at paragraph (6) of 37 (Payment of additional lump sum contributions by employing authority),

**Regulation 26(3)** at paragraph (11) of 40 (Effect of payment of additional contributions under this Chapter)

**Regulation 27** at paragraph (6) of 42 (Effect of part payment of periodical contributions)

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 260D” is inserted by-**

**Regulation 64** at paragraph (9) of 165 (Member's option to pay additional periodical contributions to purchase additional pension),

**Regulation 65** at paragraph (7) of 167 (Member's option to pay lump sum contribution to purchase additional pension),

**Regulation 66** at paragraph (6) of 168 (Payment of additional lump sum contributions by employing authority),

**Regulation 67(3)** at paragraph (11) of 171 (Effect of payment of additional contributions under this Chapter)

**Regulation 68** at paragraph (6) of 173 (Effect of part payment of periodical contributions)

**Regulation 136E and 260E**

**“Treatment of Additional Service (and pensionable earnings in the case of a practitioner)”**

(7) Arrangements to buy 'added years' of service at normal cost were withdrawn from the 1995 Section from 1 April 2008 and are not available in the 2008 Section.



Where a 2008 Section Optant has completed an added years purchase or is still in the process of doing so, their purchase will be automatically 'wound up' under 1995 regulations and an additional pensionable service credit added to the main scheme pensionable service credit transferred to the 2008 Section. For those remaining members who bought additional service under 'old-style' arrangements in the previous regulations (the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984) but have not yet retired, paragraphs 2 make equivalent arrangements. The service credited will transfer on the same terms as worked service up to 31.3.2008 (see explanation at paragraph 12.4(5) for 136C and 260C).

## **Regulation 136F and 260F**

### **“Treatment of unreduced retirement lump sum”**

(8) Arrangements in the 1995 Section to buy a bigger retirement lump sum, where that lump sum would otherwise be reduced to pay for widow's pension cover before 25 March 1972, or to buy a bigger dependant's pension for service before 6 April 1988, in the case of widower's and civil or nominated partners, will not apply in the 2008 Section. All members who transfer to the 2008 Section will enjoy full and equal dependant's benefits cover. This means that 1995 Section 'additional service style' contracts to purchase increased lump sum or pension in these circumstances (URLS contracts) will have no further value on transfer to the 2008 Section. New regulations 136F and 260F will provide for members with existing URLS contracts in 1995 that transfer on 'Choice' **automatically** to have:

- any ongoing regular contribution contract(s) stopped, and
- any previously agreed contract(s) to pay for increased benefits by deduction from retirement lump sum cancelled
- any lump sum or regular contributions paid in error (because of the date they were able to exercise their 'Choice') between 1 April 2008, when they will effectively join the 2008 Section, and the 'Choice' 'option date' described in new 136B, or 260B will be returned

## **Regulation 136G and 260G**

### **“Treatment of 2008 Section Optants to whom regulation 52(3) of the 1995 regulations applied immediately before 1 April 2008”**

(9) Regulation 52(3) of the 1995 regulations provides for a separate pension to be paid in respect of service before a break of more than 12 months if this would be more favourable to the member than treating the member's service as continuous. Regulations 136G and 260G provide for this facility to carry forward into the 2008 Section. This means that if a 2008 Section Optant has a period of service in the 1995 Section that accrued before a break of 12 months or more, the service credited

in the 2008 Section for that period may also attract a separate pension if this is more favourable. The separate pension will be based on the superannuable pay (or the uprated superannuable earnings in the case of a practitioner) that would have applied in the 1995 Section.

**Amendments made elsewhere as a consequence of 136G and 260G are as follows:**

**Regulation 19(2)** amends 15 (Meaning of “reckonable pay: general”) If more beneficial, 1995 Section superannuable pay may be used to calculate benefits for the relevant period of service in place of ‘reckonable pay’ determined under regulation 15.

**Regulation 32(2)** amends 52 (Early retirement on ill-health (active members and non contributing members))

**Regulation 73(2)** amends 182 (Early retirement on ill-health (active members and non contributing members))

A 2008 Section Optant whose service is treated separately under regulation 136G or 260G will not qualify for Tier 2 ill health enhancements (this applies in the 1995 Section where service is treated separately under regulation 52(3))

**Regulation 136H and 260H**

**“Pension Debit Members”**

(10) These regulations do two things in circumstances where a 1995 Section member with a pension sharing debit elects to join the 2008 Section. Firstly, the amount of the pension and lump sum to be debited from benefits will be increased by a factor to take account of the later normal retirement age of 65 in the 2008 Section. Secondly, because the member may choose the amount of lump sum that is taken instead of pension in the 2008 Section, regulations 136H and 260H also allow the Department to vary how the member takes their retirement benefits, if, for example-

- The member does not elect to take enough lump sum to cover the amount of the lump sum debit, or
- The member elects to take too much lump sum so that there is not enough pension left to cover the amount of the pension debit.

**Amendments made elsewhere as a consequence of 136H and 260H are as follows:**

**Regulation 36** amends 58 (General option to exchange part of pension for lump sum)

**Regulation 76** amends 185 (General option to exchange part of pension for lump sum)

Any amount of lump sum the Optant chooses to take in place of pension is subject to the provisions contained in new regulation 136H/260H

**Regulation 37** amends 60 (Reduction in pension debit member's benefits)

**Regulation 77** amends 187 (Reduction in pension debit member's benefits)

The debit in respect of a 2008 Section Optant determined under the 1999 Act (Welfare Reform and Pensions Act 1999) is subject to the increase determined under new regulation 136H/260H

### **Regulation 136I - Treatment of 2008 Section Optants to whom regulation 82 of the 1995 Regulations applied immediately before 1 April 2008**

(11) Regulation 82 of the 1995 Regulations provides for the protection of a member's superannuable pay and service in circumstances where earnings reduce through no fault of the member. This means that, if more favourable, the member will receive a separate pension at retirement in respect of service and pay up to the date earnings reduced. Regulation 136I provides for this protection to carry forward into the 2008 Section. This means that if a member has protection for a period of 1995 service, the service credited in the 2008 Section for that period will also be protected if this is more favourable. The separate (protected) pension is based on the superannuable pay that would have applied in the 1995 Section.

### **Amendments made elsewhere as a consequence of 136I**

**Regulation 19(2)** amends regulation 15 (Meaning of "reckonable pay": general). If more beneficial, 1995 superannuable pay may be used to calculate benefits for the relevant period of service in place of 'reckonable pay' determined under regulation 15.

### **Regulation 136J – Restriction on pensionable pay used for calculating benefits in respect of capped Optant service and Regulation 136K - Meaning of "capped Optant service"**

### **Regulation 260I – Pensionable earnings credited under regulations 260C and 260E to be treated as capped Optant pensionable earnings**

(12) These regulations provide for the earnings cap to continue to apply in the 2008 Section if it applied to a period of service (or superannuable earnings in the case of a practitioner) in the 1995 Section up to and including 31 March 2008 that is transferred across.

For members who will have benefits calculated on a final salary basis, the proportion of the service credited that will become subject to the earnings cap in the 2008 Section will be in the same proportion as the 1995 capped service was to the whole of the member's service in the 1995 Section up to 31 March 2008.

If the member's reckonable pay at retirement is higher than the earnings cap that applies at that time, a separate pension will be calculated in respect of capped

service using the earnings cap as at retirement instead of the member's reckonable pay. (The earnings cap was lifted by HMRC from 6 April 2006 and the equivalent cap that continued after that date in the HSC Pension Scheme was lifted from 1 April 2008).

**Amendments made elsewhere as a consequence of 136J and 136K are as follows:**

**Regulation 19(2)** amends regulation 15 (meaning of "reckonable pay": general). The earnings cap will be used to calculate benefits in respect of any 'capped Optant service' in place of 'reckonable pay' determined under regulation 15.

**Regulation 136L and 260K**

**"Amount of pension and lump sum to be paid to a 2008 Section Optant"**

(13) 2008 Section Optants will be required to take a minimum amount of retirement lump sum in place of pension (MLS). The MLS will be approximate to the amount of lump sum the Optant would have been required to take from the 1995 Section for service up to 31 March 2008 plus any added years purchased.

For final salary benefits the MLS on retirement after age 60 or on transfer of benefits will be equal to 3/80ths of the 2008 Section Optant's final salary for each year of 1995 service that transferred across plus any added years. The answer will be rounded down to the nearest multiple of 12 and the Optant's pension will be reduced by that amount divided by 12. The amount of MLS will be reduced if claimed before age 60 with an actuarial reduction or if the member was subject to a pension debit in the 1995 Section. If part of the 2008 Section Optants service is subject to the earnings cap separate calculations will be made for the MLS in respect of any capped and uncapped service.

The calculation of MLS set out in regulation 260K for practitioner Scheme members generally follows the same final salary benefit principles described for regulation 136B above. However, there are 2 differences.

In accordance with career average benefit principles, the MLS is 3 x 1.4% (4.2%) of the relevant uprated (i.e. revalued) earnings for each year of 1995 service transferred across, plus any added years.

In addition, where a practitioner has membership under both the career average and final salary regimes, and the modifications to benefits set out in Part 4 of the 2008 Regulations apply, MLS is calculated separately for the member's practitioner and final salary membership, and the amounts totalled. The total MLS is then applied to the member's final retirement benefits; irrespective of the way those benefits fall to be calculated according to Part 4. This approach removes the risk of significant

variation in MLS, depending on e.g. whether a period of final salary membership remains treated as such, or is treated as practitioner membership, in accordance with Part 4.

**Amendments made elsewhere as a consequence of 136L and 260K are as follows:-**

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 136L”** is inserted by

**Regulation 28** at paragraph (7) of regulation 45 (Normal retirement pensions),  
**Regulation 30** at paragraph (5) of regulation 48 (Early payment of pensions with actuarial reduction),  
**Regulation 31** at paragraph (10) of regulation 49 (Partial retirement (members aged at least 55))  
**Regulation 32(4)** at paragraph (18) of regulation 52 (Early retirement on ill-health (active members and non-contributing members))  
**Regulation 34** at paragraph (10) of regulation 54 (Early retirement on ill-health (deferred members)),  
**Regulation 35** at paragraph (9) of regulation 55 (Early retirement on termination of employment by employing authority),  
**Regulation 36** at paragraph (10) of regulation 58 (General option to exchange part of pension for lump sum)  
**Regulation 49(3)** at paragraph (6) of regulation 98 (Calculating amounts of transfer value payments)

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 260K”** is inserted by

**Regulation 69** at paragraph (7) of regulation 176 (Normal retirement pensions),  
**Regulation 71** at paragraph (5) of regulation 179 (Early payment of pensions with actuarial reduction),  
**Regulation 72** at paragraph (9) of regulation 180 (Partial retirement (members aged at least 55)

**Regulation 73(4)** at paragraph (18) of regulation 182 (Early retirement on ill-health (active members and non-contributing members))  
**Regulation 75** at paragraph (10) of regulation 184 (Early retirement on ill-health (deferred members))  
**Regulation 76** at paragraph (10) of regulation 185 (General option to exchange part of pension for lump sum),  
**Regulation 89(4)** at paragraph (6) of regulation 225 (Calculating amounts of transfer value payments)

**Consequential amendments are also inserted by the following amending regulations. These ensure that the amount of the member’s pension used to**

**calculate death benefits are the amount of that pension before it has been reduced to take account of the lump sum that was paid under either regulations 136L or 260K (but see further amendments below in respect of re-employed pensioners)**

**Regulation 40** at paragraph (3) and new (3A) of regulation 70 (Amount of pensions under regulation 67: pensioner members),

**Regulation 43(3)** at paragraph (8) of regulation 77 (Amount of children's pension under regulation 74: deceased pensioner members)

**Regulation 45(3) and (4)** at paragraph (2)(b) and (6) of regulation 83 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 49 employments))

**Regulation 46** at new paragraph (4) of regulation 84 (Amount of lump sum; dual capacity members (disregarding regulation 49 employments))

**Regulation 47(3)** at paragraph (4) of regulation 85 (Amount of lump sum; dual capacity members; members with pensions under regulation 49)

**Regulation 80** at paragraph (3) and new (3A) of regulation 197 (Amount of pensions under regulation 194: pensioner members)

**Regulation 83(3)** at paragraph (8) of regulation 204 (Amount of children's pension under regulation 201: deceased pensioner members)

**Regulation 85(3) and (4)** at paragraph (2)(b) and (6) of regulation 210 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 180 employments))

**Regulation 86** at new paragraph (4) at regulation 211 (Amount of lump sum; dual capacity members (disregarding regulation 180 employments))

**Regulation 87(3)** at paragraph (4) of regulation 212 (Amount of lump sum: dual capacity members: members with pensions under regulation 180)

**The following amendments ensure that the amount of any initial partner pension paid after the death of a re-employed pensioner will be based on the amount of the member's pension after it has been reduced to take account of the lump sum that was paid under either regulations 136L or 260K**

**Regulation 41** amends paragraph 3(b) of regulation 73 (Re-employed pensioners: adult survivor pensions in the initial period)

**Regulation 81** amends paragraph 3(b) of regulation 200 (Re-employed pensioners: adult survivor pensions in the initial period)

**The following two amendments provide for interest to be paid if a lump sum due under regulation 136L or 260K is paid late.**

**Regulation 54** amends paragraph 5(a) of regulation 132 (Interest on late payment of benefits and refunds of contributions)

**Regulation 95** amends paragraph 5(a) of regulation 256 (Interest on late payment of benefits and refunds of contributions)

## **Regulation 136M and 260J**

### **“Transfers in: Transitional Provision”**

(14) In keeping with the principle that 1995 Section members who opt to join the 2008 Section are treated as if they had been members of the 2008 Section from 1 April 2008, any such members who:

- joined the 1995 Section after 1 April 2008, and
- who bring with them an incoming transfer value payment

will have the service to be credited as a result of the transfer calculated (if not yet finalised) or recalculated (if the transfer payment has already been received) as if it had been received in the 2008 Section. However, the ‘relevant date’ for the purpose of calculating the service credit will be the relevant date that was or would have been used in the 1995 Section.

### **Amendments made elsewhere as a consequence of 136M and 260J are as follows:**

**Regulation 19(4)** amends regulation 15 (Meaning of “reckonable pay”: general) Sub-paragraph (11)(b)(iii) excludes the pensionable service an Optant is entitled to count under regulation 136M for the purposes of calculating ‘pensionable pay’

**“In the case of a 2008 Section Optant this regulation is subject to regulation 136M” is inserted at:**

**Regulation 50** at paragraph (5) of regulations 100 (Right to apply for acceptance of transfer value payment from another scheme)

**Regulation 51** at paragraph (7) of regulation 102 (Acceptance of transfer value payments)

**Regulation 52** at paragraph (7) of regulation 103 (Calculation of transferred-in pensionable service)

**Regulation 53** at paragraph (5) of regulation 104 (Meaning of “capped transferred-in service”)

**“In the case of a 2008 Section Optant this regulation is subject to regulation 260J” is inserted at:**

**Regulation 90** at paragraph (5) of regulation 227 (Right to apply for acceptance of transfer value payment from another scheme)

**Regulation 92** at paragraph (12) of regulation 229 (Acceptance of transfer value payments)

**Regulation 93** at paragraph (7) of regulation 230 (Calculation of increased pensionable earnings as a result of a transfer-in)

**Regulation 94** at paragraph (5) of regulation 231 (Meaning of capped increase to pensionable earnings)

The definition of “minimum transfer value payment” is also amended to take account of contributions paid and transfers into the 1995 Section in respect of a 2008 Section Optant,

**Regulation 49** amends 98 (Calculating amounts of transfer value payments)

**Regulation 89** amends 225 (Calculating amounts of transfer value payments)

## **Regulation 136N and 260M**

### **“2008 Section Optants: Transitional Tier 2 ill-health pension”**

(15) These regulations make provision for 2008 Section Optants who applied for ill health retirement under regulation 13A of the 1995 Section before their option to join the 2008 Section was received. It works in conjunction with the amended definition of “permanently” inserted into regulation 52 (182 in the case of a practitioner) by **amending regulation 32(3) (73(3) in the case of a practitioner)**. The amended definition allows a decision by medical advisers that a member qualifies for either a tier 1 or tier 2 ill-health pension in the 1995 Section to count for the same purposes under the 2008 Section.

Therefore:

- if the member qualified for a tier 2 ill health pension under the 1995 regulations before their option to join the 2008 Section is received, and
- they subsequently opt to join the 2008 Section, and
- claim a tier 2 ill-health pension under 2008 Section ill health retirement regulations within one year of joining,

the amount of enhancement the Optant will receive will be calculated under 136N (260M in the case of a practitioner) instead of 52 or 182. The period is known as the ‘transitional enhancement period’.

The transitional enhancement period is 2/3rds of the Optant’s prospective service to age 60 subject to a minimum amount of enhancement. The minimum amount is the lesser of 4 years service and full prospective service to age 60.

### **Amendments made elsewhere as a consequence of 136N and 260M**

**Regulation 32(3)** amends 52 (Early retirement on ill-health (Active members and non-contributing members)). Inserts a revised definition of “permanently” and makes regulation 52 subject to 136N.

**Regulation 73(3)** amends 182 (Early retirement on ill-health (active members and non-contributing members)). Inserts a revised definition of “permanently” and makes 182 subject to regulation 260M.



## **Regulations 136O and 260N**

### **“Treatment of ill-health retirement applications made by 2008 Section Optants within one year of joining this Section of the Scheme”**

(16) These regulations make provision for 2008 Section Optants who submit an application (AW33) for ill health retirement under the 2008 Section within one year of the Department receiving their option to join that Section. If a 2008 Section Optant becomes entitled to a tier 2 ill-health pension in these circumstances as a result of that application, any enhancement due will be calculated as described in regulation 136N or 260M in the case of a practitioner (the transitional enhancement period will apply in place of the enhancement period calculated under regulation 52 or 182)

### **Amendments made elsewhere as a consequence of 136O and 260N**

**Regulation 32(4)** amends 52 (Early retirement on ill-health (active members and non-contributing members)). Regulation 52 is made subject to regulation 136O so that the transitional enhancement period under 136N applies in place of the enhancement period in 52.

**Regulation 73(4)** amends 182 (Early retirement on ill-health (active members and non-contributing members)). Regulation 182 is made subject to regulation 260N so that the transitional enhancement period under 260M applies in place of the enhancement period in 182.

### **Regulation 136P - Application of regulation 53 where a 2008 Section Optant has submitted an application for ill-health retirement under the 1995 Section**

### **Regulation 260O - Application of regulation 183 where a 2008 Section Optant has submitted an application for ill-health retirement under the 1995 Section**

(17) These regulations make provision for 2008 Section Optants who applied for ill health retirement under regulation 13A of the 1995 Section before their option to join the 2008 Section was received. It also works in conjunction with the amended definition of “permanently” inserted into regulation 52 and 182. The amended definition allows a decision by medical advisers that a member qualifies for a tier 1 ill health pension in the 1995 Section to count for the same purposes under the 2008 Section.

Therefore:

- if the member qualified for a tier 1 ill health pension under the 1995 regulations before their option to join the 2008 Section is received, and
- they were also notified that they could ask the Department to re-assess this decision within a period of three years, and
- they subsequently opt to join the 2008 Section, and

- claim a tier 1 ill-health pension under 2008 Section ill health retirement regulations within one year of joining,

they will also be entitled to ask for the decision to be reassessed under regulation 53 (183 in the case of a practitioner) of the 2008 regulations. For the purpose of the reassessment, the permanence criteria for a tier 2 ill-health pension will be to age 60. If, following the reassessment, the Optant qualifies for a tier 2 ill-health pension to be paid in place of their tier 1 ill-health, the enhancements will be calculated under regulation 136N or 260M (in the case of a practitioner) and will apply from the date of the Department's decision that the Optant meets the tier 2 ill-health criteria.

**Amendments made elsewhere as a consequence of 136P and 260O are as follows:**

**The following regulations are made 'subject to' regulation 136P**

**Regulation 32(4)** amends paragraph (18) of regulation 52 (Early retirement on ill-health (active members and non-contributing members))

**Regulation 33(3)** amends paragraph (4) of regulation 53 (Re-assessment of entitlement to an ill-health pension determined under regulation 52)

**The following regulations are made 'subject to' regulation 3.K.15**

**Regulation 73(4)** amends paragraph (18) of regulation 182 (Early retirement on ill-health (active members and non-contributing members))

**Regulation 74(3)** amends paragraph (4) of regulation 183 (Re-assessment of entitlement to an ill-health pension determined under regulation 182)

### **1995 Regulations**

**Regulation 5** amends 13B (Re-assessment of ill-health condition determined under regulation 13A) to ensure that members cannot become entitled to a 1995 tier 2 ill-health pension for 1995 service and 2008 tier 2 ill-health pension for their later service.

**Regulation 136Q - Application of regulation 53 where a 2008 Section Optant has submitted an application for ill-health retirement under the 2008 Section within a year of joining the 2008 Section**

**Regulation 260P - Application of regulation 183 where a 2008 Section Optant has submitted an application for ill-health retirement under the 2008 Section within a year of joining the 2008 Section**

(18) These regulations make provision for 2008 Section Optants who submit an application (AW33) for ill health retirement under the 2008 Section within one year of the Department receiving their option to join that Section and who become entitled to a tier 1 ill-health pension as a result. If, at the time that pension is awarded, the Optant is notified that they may ask the Department to reassess this decision within a period of three years and their subsequent application for a reassessment to a tier 2 ill-health pension is successful any enhancement due will be calculated as described in regulation 136N or 260M (in the case of a practitioner). The transitional enhancement period will apply in place of the enhancement period calculated under regulation 52 or 182 and will apply from the date of the Department's decision that the Optant meets the tier 2 ill-health criteria.

**Amendments made elsewhere as a consequence of 136Q and 260P are as follows:**

**The following regulations are made 'subject to' regulation 136Q**

**Regulation 32(4)** amends paragraph (18) of regulation 52 (Early retirement on ill-health (active members and non-contributing members))

**Regulation 33(3)** amends paragraph (4) of regulation 53 (Re-assessment of entitlement to an ill-health pension determined under regulation 52)

**The following regulations are made 'subject to' regulation 260P**

**Regulation 73(4)** amends paragraph (18) of regulation 182 (Early retirement on ill-health (active members and non-contributing members))

**Regulation 74(3)** amends paragraph (4) of regulation 183 (Re-assessment of entitlement to an ill-health pension determined under regulation 182)

**Regulation 136R - Transitional Provision: Treatment of additional service in respect of Optants retiring on the grounds of Ill- Health**

**Regulation 260R - Transitional Provision: Treatment of additional service in respect of Optants retiring on the grounds of Ill- Health**

(19) In the 1995 Section, members who successfully apply for an ill-health retirement (IHR) pension under regulation 13 or 13A of that Section, before age 60 and at least 12 months after starting to pay regular additional contributions, are credited with the full amount of the additional service that they contracted to buy and any outstanding additional contributions are deemed to have been paid. 1995 Section members who have been making regular additional contributions for less than 12 months have their contract cancelled and their additional contributions to date refunded less tax. New regulations 136R and 260R mirror these

arrangements for members who successfully apply for IHR before the date on which the member's option to join the 2008 Section of the Scheme is received.

**Amendments made elsewhere as a consequence of 136R and 260R are as follows:**

**Regulation 32(4)** makes regulation 52 (Early retirement on ill-health (active members and non-contributing members)) 'subject to' **regulation 136R**

**Regulation 73(4)** makes regulation 182 (Early retirement on ill-health (active members and non-contributing members)) 'subject to' **regulation 260R**

**Regulation 136S - Circumstances in which a 1995 Section member may defer making an option to join this Section of the Scheme under regulation 136B**

**Regulation 260T - Circumstances in which a 1995 Section member may defer making an option to join this Section of the Scheme under regulation 260B**

(20) These regulations allow a 1995 Section member to defer making an option to join the 2008 Section until the outcome of an ill health application under the 1995 regulations is known. The application for ill health retirement (AW33) must be received before a comparative statement of benefits is issued or before the date specified in the statement if the application is made after a statement has been issued.

In these circumstances a member may defer their decision on whether to join the 2008 Section until four months after they receive a decision on their ill health application. If the application is not agreed and the member appeals against that decision within 12 months of the termination of their contract, a decision may be deferred until four months after they are notified of the outcome of the 1st appeal. If the 1st appeal is not agreed and a second appeal is submitted within six months of the notification of the 1st appeal decision, their decision to join the 2008 Section may be deferred until four months after they are notified of the outcome of the 2nd appeal.

If the 2nd appeal is not agreed and a request for a determination by the Pensions Ombudsman is made within three years of the notification of the 2nd appeal decision, their decision to join the 2008 Section may be deferred until four months after they are notified of the outcome of the Pensions Ombudsman's investigation.

The option to defer a decision to join the 2008 Section under this regulation ceases if the member becomes re-employed in the NHS/HSC or if an actuarially reduced pension under the 1995 regulations is claimed.

**Regulation 136T - Nominations and notices accepted by the Department under the 1995 regulations to apply under Chapter 5 of this Part of these Regulations**

**Regulation 260L - Nominations and notices accepted by the Department under the 1995 regulations to apply under Chapter 5 of this Part of these Regulations**

(21) These regulations provide for 2008 Optants who have made nominations or given notices in the 1995 Section for:

- a lump sum nomination under regulations 18 to 21 of that Section,
- a notice under regulation 22(3)(a) that the member's surviving partner is not to receive a lump sum under regulations 18 to 21, or
- a notice for the purposes of regulation 31E of that Section nominating a partner to receive a surviving nominated partner pension

to have those notices or nominations treated as if they were notices or nominations made under the 2008 Section.

**Amendments made elsewhere as a consequence of 136T and 260L are as follows:**

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 136T (Nominations and notices accepted by the Department under the 1995 Regulations to apply under Chapter 5 of this Part of these Regulations)”** is inserted by-

**Regulation 38** at paragraph (3) of regulation 68 (Meaning of “surviving nominated partner”)

**Regulation 48** at paragraph (13) of regulation 87 (Payment of lump sums or pensions on death)

**“In the case of a 2008 Section Optant, this regulation is subject to regulation 260L (Nominations and notices accepted by the Department under the 1995 Regulations to apply under Chapter 5 of this Part of these Regulations)”** is inserted by-

**Regulation 78** at paragraph (3) of regulation 195 (Meaning of “surviving nominated partner”)

**Regulation 88** at paragraph (13) of regulation 214 (Payment of lump sums or pensions on death)

**Regulations 136U and 260Q**

**“Late payment of pension with actuarial increase for a 2008 Optant”**

(22) Pensions payable after the normal retirement age of 65 in the 2008 Section attract a 'late retirement factor' (LRF) increase in respect of pensionable service up to age 65 under regulation 47 or 178 (in the case of a practitioner). Service after age 65 does not attract an increase.

These regulations entitle a 2008 Section Optant to reckon **all** their 1995 Section service up to 31 March 2008 that counts under regulation 136C or 260C of the 2008 Section for a LRF increase, even if some of that 1995 service fell after age 65. The service a 2008 Section Optant will be able to count for a LRF increase is:

- all the service and pensionable earnings the Optant can count under regulation 136C or 260C,
- any additional service (added years) the Optant is entitled to count under regulation 136E or 260E,
- service in the 2008 Section on or after 1.4.2008 and **before** age 65, and
- any contributions payable before age 65 for Additional Pension

Service in the 2008 Section **after** age 65 from and including 1 April 2008 will continue to attract no late retirement increase.

**Amendments made elsewhere as a consequence of 136U and 260Q are as follows:**

**Regulation 29** makes Regulation 47 (Late payment of pension with actuarial increase) 'subject to' regulation 136U

**Regulation 70** makes Regulation 178 (Late payment of pension with actuarial increase) 'subject to' regulation 260Q

### **Regulation 136V and 260U**

#### **“2008 Section Optants who are in receipt of a tier 1 ill-health pension under Regulation 13A of the 1995 Regulations”**

(23) Some members who choose to transfer to the 2008 Section may already be in receipt of a 1995 Section Tier 1 (unenhanced) ill-health pension (“a re-employed 2008 Section Optant”). The amendment ensures that where such a member’s 1995 tier 1 ill-health pension converts to a tier 2 pension under regulation 13B, any further ill health pension, for service in the 2008 Section, is restricted to tier 1. And, because such an Optant may be in the process of applying for a tier 2 ill health pension for their re-employment in the 1995 Section, the regulation is made subject to the transitional arrangements in regulation 136N onwards (260M onwards for a practitioner).

**Amendments made elsewhere as a consequence of 136V and 260U are as follows:**

**Regulation 21(2)** inserts paragraph (2) in new regulation 21A (Eligibility: transitional)

**Regulation 62(2)** inserts paragraph (2) in new regulation 153A (Eligibility: transitional)

Prevents a re-employed 2008 Section Optant from accruing further service in the 2008 Section if, on review, their 1995 tier 1 ill-health pension is converted into an enhanced tier 2-ill health pension.

### **Regulation 136W and 260V**

**“Lump sum payable on the death of a 2008 Section Optant who is in receipt of a tier 1 ill-health pension under regulation 13A of the 1995 Regulations”**

(24) Regulations 136W and 260V ensure that the death benefit lump sum paid in respect of a reemployed 2008 Section Optant will not be twice their reckonable pay. In common with reemployed pensioners whose service is all within one Section of the HSC Scheme, the lump sum on death in these circumstances will be equal to five times the value of a tier 2 ill health- pension.

**Amendments made elsewhere as a consequence of 136W and 260V are as follows:**

**“In the case of a 2008 Section Optant, this is subject to regulation 136W (Lump sum payable on the death of a 2008 Section Optant who is in receipt of a tier 1 ill-health pension under regulation 13A of the 1995 Regulations)”** is inserted by-

**Regulation 45(2)** at paragraph (1) of 83 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 49 employments)),

**Regulation 47(2)** at paragraph (2) of 85 (Amount of lump sum; dual capacity members; members with pensions under regulation 49)

**“In the case of a 2008 Section Optant, this is subject to regulation 260V (Lump sum payable on the death of 2008 13A of the 1995 Regulations)”** is inserted by-

**Regulation 85(2)** at paragraph (1) of 210 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 180 employments))

**Regulation 87(2)** at paragraph (2) of 212 (Amount of lump sum: dual capacity members with pensions under regulation 180)

## **1995 Regulations**

**Regulation 6 revises paragraph (3) of regulation 25 (Member dies after pension becomes payable)** This amendment ensures that the initial rate of any partner pension paid in respect of a 1995 pensioner who is also a 2008 Section Optant is reduced to take account of any pension abatement in force as a result of pensionable service in the 2008 Section.

## **Regulation 136X and 260W**

**“Children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a tier 1 ill health pension under regulation 13A of the 1995 Regulations”**

(25) Children’s pensions are based on a proportion of the member’s pension based on a minimum of 10 years service. In the case of re-employed pensioners the minimum only applies if both the earlier and the later service (in re-employment) combined is less than ten years. If the member’s combined service is less than 10 years the later service is increased by the difference.

These regulations ensure that the 10 years service minimum takes account of service in both the 1995 and the 2008 Section. Where the combined service across the two Sections is less than 10 years, the later 2008 active service will be increased by the shortfall.

**Amendments made elsewhere as a consequence of 136X and 260W are as follows:**

**“In the case of a 2008 Section Optant, this is subject to regulation 136X (Children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a tier 1 ill-health pension under regulation 13A of the 1995 Regulations”)** is inserted by-

**Regulation 42** at paragraph (4) of 76 (Amount of children’s pension under regulation 74: deceased active members and deceased non-contributing members)

**Regulation 43(2)** at paragraph (3) of 77 (Amount of children’s pension under regulation 74: deceased pensioner members)

**Regulation 44** at paragraph (3) of 78 (Amount of children’s pension under regulation 74: deceased deferred members)



**“In the case of a 2008 Section Optant, this is subject to regulation 260W (Children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a tier 1 ill-health pension under regulation 13A of the 1995 Regulations)” is inserted by-**

**Regulation 82** at paragraph (3) of 203 (Amount of children’s pension under regulation 201: deceased active members and deceased non-contributing members)

**Regulation 83(2)** at paragraph (3) of 204 (Amount of children’s pension under regulation 201: deceased pensioner members)

**Regulation 84** at paragraph (3) of 205 (Amount of children’s pension under regulation 201: deceased deferred members)

**1995 Regulations**

**Regulation 9 amends paragraph (2) of regulation 35 (Member dies after pension becomes payable)** so that where a 2008 Section Optant’s service is less than ten years, for the purposes of calculating any children’s pension payable the shortfall is added to the later 2008 Section membership.

**The calculation of mixed final salary and career average benefits for practitioner members (changes to both the 1995 and the 2008 Sections) - in detail**

12.5

<b>1995 Section</b>	
<i>Amending regulation</i>	<i>Regulation amended</i>
11	Schedule 2 to the 1995 regulations paragraphs 9 & 11A
<b>2008 Section</b>	
97	262 (Interpretation: general)

<b>98</b>	<b>263</b> (Application of Chapter 2)
<b>99</b>	<b>264</b> (Cases with up to 10 years officer service)
<b>100</b>	<b>265</b> (Cases with more than 10 years officer service)
<b>101</b>	<b>269A</b> Inserts new 269A (Cases with non-concurrent officer service between periods of practitioner service)
<b>103</b>	<b>272A</b> Inserts new 272A (Calculation Method D)
<b>104</b>	<b>273</b> (Top-up where reference amount greater than base amount)

These amendments refine existing provisions for the calculation of retirement benefits for general medical and dental practitioners with membership under both the career average and final salary regimes. The changes have the same effect in both Sections of the Scheme and will apply to practitioner members who retire on or after 1 October 2009, for membership accrued before and after that date.

Amending regulations 11 (schedule 2(9)), and 97 to 100 remove references to 'Principal' practitioner from 1995 (schedule 2(9)) and 2008 regulations 262 and 263 to 265, respectively. This will ensure that the provisions to treat up to 10 years of officer service before first becoming a 'Principal' practitioner as if it were practitioner service, will be available to all types of practitioner, where this is beneficial.

Amending regulations 11 (schedule 2 (11A)), 101, 103 and 104 make changes to 1995 (schedule 2(11A)) and 2008 regulations 269A, 272A and 273 that will apply to one or more periods of final salary membership 'sandwiched' between periods of practitioner membership. The change will ensure that members with this service pattern are not disadvantaged if their final salary benefit cannot be linked to final pensionable pay, by improving the revaluation of the benefit, from RPI, to RPI+1.5%, for the period between the end of 'sandwiched' membership and final retirement.

The improved revaluation is "Calculation method D" in new regulation 272A. Briefly, the basic pension and any lump sum amounts will first be calculated in the normal way, and then revalued (increased) by 1.5% per annum, in the same way that a pension would be under the Pensions (Increase) Act (Northern Ireland) 1971 (PI act). The additional revaluation will be applied up to the date the pension is put into payment only, followed by normal increases under the PI Act, so that 'double indexation' will be avoided.

## Miscellaneous and technical amendments in detail

### 12.6

#### (1) Miscellaneous Amendments made to the 1995 Section Regulations

<b>Amending Regulation</b>	<b>1995 Regulation amended</b>	<b>Change</b>
<b>7</b>	<b>31E</b>	Ensures that members who are on unpaid sick

		leave on or after 1 April 2008 may nominate a partner to receive a surviving partner
8	34	Ensure that any added years purchased are included in the service used to calculate a child allowance after that service has been increased to ten years if appropriate.
11(2)(e)	Schedule 2 paragraph (9)	Clarifies the way in which pensionable earnings will be determined, if a member has officer service before practitioner service that was the result of a transfer-in
4	2 (Interpretation)	In order to better differentiate between the 1995 and 2008 regulations, references have been changed throughout both sets of regulations so that they refer to the 1995 Section and 2008 Section of the HSC Pension Scheme
12	Gives effect to Schedule 1	

(2) Miscellaneous Amendments made to the 2008 Section Regulations

Amending Regulation	2008 Regulation amended	Change
15	5 (Provision of information relevant for tax purposes)	In order to better differentiate between the 1995 and 2008 Regulations, references have been changed throughout both sets of regulations so that they refer to the 1995 Section and the 2008 Section of the HSC Pension Scheme
16	6 (Interpretation: general)	
20	21 (Eligibility: general)	
56	137 (Interpretation of Part 3: general)	
105	Gives effect to Schedule 2	
16 & 56	6 & 137 (Interpretation: general) (definition of 'host Board')	Clarifies the operation of 'host board' in relation to general medical and dental practitioners and non-GP providers and exceptions to the circumstances when the host board will be deemed to be the employer of such persons
22	31 (Contributions by employing authorities: general)	
62	153 (Eligibility: general)	Ensures the "other scheme condition" applies correctly to deferred members of the 1995 Section who have not since become pensioner members of that Section
33(2)	53 (Re-assessment of	

74(2)	entitlement to an ill-health pension determined under regulation 52)  183 (Re-assessment of entitlement to an ill-health pension determined under regulation 182)	The drafting of paragraph (2) of these regulations has been brought into line
91 92 93 94	228 (Procedure for application under regulation 227)  229 (Acceptance of transfer value payments)  230 (Calculation of transferred-in pensionable service)  231 (Meaning of “capped transferred-in service”)	These amendments clarify the way earnings cap operates for practitioner members. The changes underline that, for practitioner members, a period of capped service is given effect by restricting the pensionable earnings used to calculate Scheme benefits  The amendment also makes clear that any part of an increase to pensionable earnings, following a transfer-in, that the practitioner is entitled to count under regulation 229(2)(a) as a result of capped service is a “ <i>capped increase to pensionable earnings</i> ” for the purposes of this Section of the Scheme
102	270 (Calculation method A)	Clarifies the way in which pensionable earnings will be determined, if a member has officer service before practitioner service that was as a result of a transfer-in

### Amendments made to the Compensation for Premature Retirement Regulations

13. **Amending regulation 106** inserts the method for calculating the additional period of service for members of the 1995 section who retire on the grounds of redundancy on or after 1 October 2009 but before the 1 October 2011.

### Amendments made to the Additional Voluntary Contribution Regulations

14. **Amending regulation 107** corrects the omission of a cross-reference to regulations 130 and 254 of the 2008 Regulations from regulation 20 and in paragraph (14)(1)(b) of Schedule 2 and updates certain references in accordance with the Finance Act 2004.

### Option to persons detrimentally affected by these amending regulations

15. **Amending regulation 108 (Option to persons detrimentally affected by these regulations)** provides for a deferred member, or a member in receipt of a relevant benefit, whose position under these regulations would be worsened by any retrospective provision, to elect that that provision will not apply to them.

#### **Consultation on the draft regulations**

16. A formal consultation exercise on the amending regulations began on the 27 August 2009 and ended on 30 September 2009. Amongst those consulted were: HSC Staff Side representatives, HSC Employers and the HSC Pension Service
17. **Consultation outcome**  
No responses to the consultation were received.
18. **Guidance for HSC staff and HSC employers**  
HSC Pension Service notified all HSC staff and HSC employers of the Pension Choice Exercise, notifications included staff payslip messages, employer newsletters and presentations.