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STATUTORY RULES OF NORTHERN IRELAND

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**2010 No. 286**

**The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010**

**PART 3**

**Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008**

**New Chapter 11**

**51.** After Chapter 10 of Part 3 (2008 Section Optants), insert—

**“CHAPTER 11**

**Waiting Period Joiners**

**260X Application of Chapter 11 of this Part**

(1) This Chapter makes provision in relation to pensioner members of the 1995 Section of the Scheme who are eligible to be members of this Section of the Scheme in accordance with paragraph (1)(b)(ii) of regulation 153A (Eligibility: transitional).

(2) A member of this Section of the Scheme to whom this Chapter applies is referred to as a “Waiting Period Joiner”.

**260Y Nominations and notices accepted by the Department under the 1995 Regulations and Chapter 5 of this Part of these Regulations**

(1) This regulation applies if—

- (a) on the day a Waiting Period Joiner becomes an active member of this Section of the Scheme—
  - (i) the Department has accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Joiner, and
  - (ii) that Joiner has not revoked that nomination or notice; or
- (b) at any time after a Waiting Period Joiner becomes an active member of this Section of the Scheme, that Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table at paragraph (4).

(2) The nominations and notices referred to in paragraph (1)(a) are—

- (a) a nomination made in accordance with regulation 22 of the 1995 Regulations (Payment of lump sum) in favour of one or more persons in respect of any lump sum that becomes payable under regulations 18 to 21 of those Regulations (which deal with lump sum payments on the death of a member in different circumstances);
  - (b) a notice provided for the purposes of paragraph (3)(a) of regulation 22 of the 1995 Regulations that the person's surviving partner (within the meaning of that regulation) is not to receive the payment of any lump sum that becomes payable under regulations 18 to 21 of those Regulations;
  - (c) a notice provided for the purpose of regulation 31E of the 1995 Regulations (Surviving nominated partner's pension) nominating a partner to receive a surviving nominated partner pension.
- (3) For the purpose of this Section of the Scheme a nomination or notice referred to in paragraph (1)(a) shall be treated—
- (a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Department as a notice for the purposes of regulation 214;
  - (b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Department as a notice for the purposes of regulation 214 specifying that the Waiting Period Joiner's personal representatives are to receive any lump sum or pension on the death of that Joiner; and
  - (c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Department as a declaration for the purposes of regulation 195.
- (4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table shall, without more, be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

<i>Column 1</i>	<i>Column 2</i>
<b>1995 Regulations</b>	<b>2008 Regulations</b>
22	214
31E	195

**260Z Waiting Period Joiners who are in receipt of a tier 1 ill-health pension under Regulation 13A of the 1995 Regulations**

- (1) This regulation applies to a Waiting Period Joiner who—
- (a) is entitled to a tier 1 ill-health pension under regulation 13A of the 1995 Regulations (Ill-health pension on early retirement) in respect of service in the 1995 Section ("the earlier 1995 Section service"); and
  - (b) becomes entitled to a tier 1 ill-health pension or, as the case may be, a tier 2 ill-health pension under regulation 182 in respect of service in this Section of the Scheme ("the later 2008 Section service").
- (2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.

(3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a tier 1 or a tier 2 ill-health pension under regulation 182 in respect of that later service.

(4) Those benefits are—

- (a) a tier 1 ill-health pension under regulation 13A of the 1995 Regulations in respect of the member's earlier 1995 Section service; and
- (b) a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the member's later 2008 Section service.

This is subject to paragraph (5).

(5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—

- (a) ceases to be entitled to a tier 1 ill-health pension in respect of the earlier 1995 Section service;
- (b) becomes entitled to a tier 2 ill-health pension in respect of that earlier 1995 Section service in accordance with regulation 13B of the 1995 Regulations (Re-assessment of ill health condition determined under regulation 13A); and
- (c) becomes entitled to a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the later 2008 Section service on the termination of that later service.

(6) Those benefits are—

- (a) a tier 2 ill-health pension paid in accordance with regulation 13B of the 1995 Regulations in respect of the earlier 1995 Section service; and
- (b) a tier 1 ill-health pension in respect of the later 2008 Section service.

#### **260ZA Lump sum payable on the death of a Waiting Period Joiner**

(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner's death, is an active or a non-contributing member in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) The lump sum payable on the death of a Joiner referred to in paragraph (1) shall be calculated in accordance with whichever of paragraphs (3) to (6) applies to that Joiner and shall be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of that Joiner's later 2008 Section service under regulation 210.

(3) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 182(5) to which that deceased Joiner would have been entitled at that date, multiplied by five.

(4) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 176 to which that deceased Joiner would have been entitled at that date, multiplied by five.

(5) Where, at the date of a Waiting Period Joiner's death, that Joiner was a non-contributing member who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which that Joiner would have been entitled under regulation 176 on the last day of that Joiner's pensionable service, multiplied by five.

(6) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member or a non-contributing member who had exercised the option under regulation 180, the lump sum referred to in paragraph (2) shall be determined by the Department after taking advice from the Scheme actuary.

### **260ZB Children's pensions payable on the death of a Waiting Period Joiner**

(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the Scheme, where at the date of that Joiner's death that Joiner was an active, non-contributing, pensioner or deferred member who was entitled to a pension under the 1995 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service").

(2) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death, was an active or non-contributing member, "the basic death pension" for the purposes of paragraph (3) of regulation 203 shall have the meaning given in paragraph (3).

(3) The "basic death pension" means twice the appropriate proportion of the deceased member's pension under regulation 176 and—

(a) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death, an active member that pension includes the greater of—

(i) any increase due to such enhancement period that would have applied for the purposes of regulation 182(5) if that Joiner had become entitled to a tier 2 ill-health pension at that date, and

(ii) that Joiner's later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service as an active member; and

(bb) 10 years pensionable service,

where the amount of service in paragraph (aa) is less than that specified in paragraph (bb);

(b) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the Scheme on the date of that Joiner's death.

(4) In the case of a deceased Waiting Period Joiner who was a pensioner member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 204 shall have the meaning given in paragraph (5).

(5) The "basic death pension" means the greater of—

(a) twice the appropriate proportion of the deceased Waiting Period Joiner's annual pension (disregarding any additional pension); and

(b) twice the appropriate proportion of the annual pension (disregarding any additional pension), to which that Joiner would have been entitled calculated as the aggregate of that Joiner's later 2008 Section service plus the difference between—

(i) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service, and

(ii) 10 years pensionable service,

where the amount of service in head (i) is less than that specified in head (ii).

(6) In the case of a deceased Waiting Period Joiner who was a deferred member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 205 shall have the meaning given in paragraph (7).

(7) The "basic death pension" means—

(a) if the deceased Waiting Period Joiner died within 12 months of the day on which that Joiner ceased to be an active member or a non-contributing member (the cessation date), the amount that would be the basic death pension for the purposes of regulation 203 if that Joiner had died on the cessation date (disregarding any additional pension), and

(b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—

(i) twice the appropriate proportion of the pension to which that Joiner would have been entitled if that joiner had become entitled to a pension under regulation 176 on the date of death (disregarding any additional pension), and

(ii) twice the appropriate proportion of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service that has been deferred plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service that has been deferred, and

(bb) 10 years pensionable service,

where the amount of service in paragraph (aa) is less than that specified in paragraph (bb).".