
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 120

**The Health and Social Care Pension Scheme
Regulations (Northern Ireland) 2015**

PART 5

Member's benefits

CHAPTER 4

Partial retirement

Election for partial retirement (members over normal retirement age)

- 83.**—(1) This regulation applies to a member (M) if—
- (a) M has reached minimum pension age;
 - (b) M continues to be employed in an employment in which M is an active member;
 - (c) M is qualified for retirement benefits;
 - (d) the terms on which M holds or engages in the employment mentioned in sub-paragraph (b) change; and
 - (e) as a result of the change, M is subject to a relevant reduction.
- (2) In paragraph (1), M is subject to a relevant reduction if—
- (a) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the employment mentioned in paragraph (1)(b) are reduced to 90% or less of the amount of M's pensionable earnings during the period of 12 months ending with the election day;
 - (b) where M is a practitioner or a non-GP provider, M's engagement in the employment is reduced to 90% or less of its level during that period.
- (3) If this regulation applies, M may elect to claim immediate payment of pension as specified in the election pursuant to paragraphs (a) and (b)—
- (a) M must specify the percentage of pension M claims (the specified percentage);
 - (b) M must specify whether M claims any additional pension to which M is entitled.
- (4) The election must be exercised by notice in writing to the scheme manager in such form as the scheme manager determines and must be accompanied by—
- (a) where M is neither a practitioner nor a non-GP provider, a statement in writing by the employing authority that the conditions in paragraph (1)(d) and (e) are met;
 - (b) where M is a practitioner or a non-GP provider—
 - (i) appropriate supporting evidence; and
 - (ii) a statement in writing by the RHSCB that the conditions in paragraph (1)(d) and (e) are met.

- (5) The specified percentage must be such that—
- (a) the amount of the pension to which M becomes entitled as a result of the election—
 - (i) is not less than 20% of the pension that would have been payable if M had ceased to be employed in all M's employments at the end of the election day; and
 - (ii) taken together with any increase to which M is entitled in consequence of the election, is not less than 0.05% of M's lifetime allowance on the election day;
 - (b) the amount of the pension in respect of which M does not require immediate payment is not less than 20% of the amount that would have been payable if M had ceased to be employed in all of M's employments at the end of the election day.
- (6) In applying paragraph (5)—
- (a) any additional pension to which M is entitled must be ignored; and
 - (b) the amount in sub-paragraph (a) is the amount of the pension disregarding the effect of an application under regulation 76.
- (7) An election under this regulation may be made on not more than two occasions and the scheme manager must take advice from the scheme actuary regarding—
- (a) any benefits to be paid after the first election (but before the second election);
 - (b) any benefits to be paid after a second election; and
 - (c) the final payment.
- (8) If M was not an active member during the whole of the period of 12 months mentioned in paragraph (2)(a), that paragraph applies as if M's pensionable earnings during that period were—
- $$PE \times \frac{365}{N}$$
- where—
- PE is M's pensionable earnings for the part of that period during which M was an active member; and
- N is the number of days in that period on which M was an active member.
- (9) In this regulation and regulations 84 to 88, the election day is the day before the relevant deduction takes effect.

Effect of election

- 84.**—(1) This regulation applies if a member (M) makes an election under regulation 83.
- (2) M is entitled—
- (a) if M has reached normal pension age, to immediate payment of the specified percentage of the pension to which M would be entitled by virtue of regulation 72(1) if M had ceased to be employed in one or more employments on election day;
 - (b) if M has not reached normal pension age, to immediate payment of the specified percentage of the pension to which M would be entitled by virtue of regulation 78 if M had ceased to be employed in one or more employments on election day; and
 - (c) if the election specifies that M claims immediate payment of additional pension, to the additional pension subject—
 - (i) where sub-paragraph (a) applies, to an increase of the same amount as would be made in that pension pursuant to paragraph 2 of Schedule 11 if M had ceased to be employed on the election day; and

- (ii) where sub-paragraph (b) applies, to a reduction of the same amount as would have been made in that pension pursuant to regulation 78 if M had so ceased to be employed.
- (3) For the purposes of this Part—
 - (a) M is a pensioner member as respects—
 - (i) the pension to which M is immediately entitled as a result of making the election; and
 - (ii) the specified percentage of the pensionable service that pension represents, as respects which M is an active member on the election day;
 - (b) if M continues in pensionable service after the election day, M is an active member as respects—
 - (i) the pensionable service after that day in which M continues; and
 - (ii) so much of the pensionable service as respects which M is an active member as is not within sub-paragraph (a) (the unspecified service); and
 - (c) if M does not continue in pensionable service after the election day, M is a deferred member as respects the unspecified service.

Terms of employment improve after election

- 85.**—(1) This regulation applies if—
- (a) a member (M) has made an election under regulation 83(3);
 - (b) during the period of 12 months beginning with the day following election day the terms on which M holds the employment (or employments) mentioned in regulation 83(1)(b) change again; and
 - (c) as a result M is subject to a relevant increase.
- (2) In paragraph (1) M is subject to a relevant increase if—
- (a) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the employment (or employments) is increased to more than 90% of M's pensionable earnings during the period of 12 months ending with the election day;
 - (b) where M is a practitioner or a non-GP provider, the level of M's engagement in the employment is increased to more than 90% of M's pre-change level.
- (3) The amount of M's pension mentioned in regulation 84(2) is abated to zero from the first pension day following the day on which the relevant increment occurred.
- (4) If, during the period of 12 months beginning with the day following election day, M enters further employment in which M is an active member—
- (a) the terms on which M holds the employment in respect of which the election was made (the election employment) are treated as having changed again; and
 - (b) for the purpose of determining whether M is subject to a relevant increase—
 - (i) where M is a practitioner or a non-GP provider, M's level of engagement in the further employment is treated as engagement in the election employment; and
 - (ii) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the further employment are treated as pensionable earnings from the election employment
- (5) Paragraph (3) does not apply if—
- (a) the only change to M's terms as mentioned in paragraph (1)(b) is to M's pensionable earnings;

(b) the scheme manager thinks that the annual rate of M's pensionable earnings at the time of the change would have exceeded the annual rate mentioned in paragraph (2)(a).

(6) If M was not an active member during the whole of the period of 12 months mentioned in paragraph (1)(b), that paragraph applies as if M's pensionable earnings during that period were—

$$PE \times \frac{365}{N}$$

where—

PE is M's pensionable earnings for the part of that period during which M was an active member; and

N is the number of days in the period on which M was an active member.

(7) In paragraph (2)(b), the pre-change level is the level of M's engagement in the employment during the period of 12 months ending on the election day.

Member becomes subject to reduction following abatement

86.—(1) This regulation applies if—

(a) regulation 85 applies to a member (M) such that M's pension is abated to zero pursuant to paragraph (3) of that regulation; and

(b) M again becomes subject to a relevant reduction (within the meaning of regulation 83(2)).

(2) The scheme manager must restore the payment of M's pension with effect from the first pension day immediately following the day on which M became subject to the relevant reduction as mentioned in paragraph (1)(b).

(3) The scheme manager must not act under paragraph (2) unless the scheme manager obtains and has regard to the advice of the scheme actuary as to whether the amount of the pension should be adjusted in view of the length of time during which it was abated to zero.

Payment of pension after abatement

87.—(1) This regulation applies if—

(a) a member's (M) pension is abated pursuant to regulation 85(3); and

(b) M's pensionable earnings are not reduced in consequence of M again becoming subject to a relevant reduction as mentioned in regulation 86(2).

(2) M's pension is payable by the scheme manager—

(a) when M partially retires or retires again from pensionable employment; or

(b) M attains the age of 75.

(3) For the purposes of paragraph (2), the scheme manager must—

(a) have regard to any pension already paid, including any lump sum paid as a result of M making an application under regulation 76 (Conversion or part of pension into lump sum); and

(b) obtain advice from the scheme actuary.

Application of regulations 83 to 87: concurrent employments

88.—(1) This regulation applies if a person (M) is an active member in two or more employments held concurrently on the election day.

(2) Regulations 83 to 87 apply in relation to each of the employments as if it were the only employment held by M on that day, subject to the following modifications.

(3) In regulation 83—

(a) for paragraph (2)(a) substitute—

“(a) where M is neither a practitioner nor a non-GP provider, if the sum of the annual rate of M’s pensionable earnings in that employment and every other employment held by M on the election day is reduced to 90% or less of the sum of—

(i) M’s pensionable earnings in the employment during the period of 12 months ending with the election day; and

(ii) M’s pensionable earnings during that period in every other employment held by M on that day.”; and

(b) in paragraph (8), after “paragraph (2)(a)” insert “in respect of any employments held by M”.

(4) In regulation 85, for paragraph (2)(a) substitute—

“(a) where M is neither a practitioner nor a non-GP provider, the annual rate of M’s pensionable earnings in the employment is increased to more than 90% of the sum of—

(i) M’s pensionable earnings in the employment during the period of 12 months ending with the election day; and

(ii) M’s pensionable earnings during that period in every other employment held by M on that day.”.

(5) In the case of a practitioner or non-GP provider, a reference to M’s employment is a reference to M’s pensionable service as a practitioner together with any concurrent HSC employment, and “terms of employment” must be construed accordingly.