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STATUTORY INSTRUMENTS

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**1972 No. 1073**

**Superannuation (Northern Ireland) Order 1972**

Persons engaged in health services, etc.

**Superannuation of persons engaged in [<sup>F1</sup>health care], etc.**

**12.**—(1) The Ministry of Health and Social Services may, by regulations made with the consent of the Ministry, make provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of such requirements and conditions as may be prescribed by the regulations, are to be, or may be, paid by the Ministry of Health and Social Services to or in respect of such persons, or classes of persons, as may be so prescribed [<sup>F2</sup> (in this Article referred to as “health staff”)], being—

- (a) persons, or classes of persons, engaged in [<sup>F3</sup>health care] or [<sup>F4</sup>social care] other than services provided by a local authority; and
- (b) other persons, or classes of persons, for whom it is appropriate, in the opinion of the Ministry of Health and Social Services, to provide pensions, allowances or gratuities under the regulations.

[<sup>F5</sup>(1A) Paragraph (1) is subject to sections 18 and 19 of the Public Service Pensions Act (Northern Ireland) 2014 (restrictions on benefits provided under existing schemes).]

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may include all or any of the provisions referred to in Schedule 3.

[<sup>F2</sup>(2A) Where regulations under this Article make provision with respect to money purchase benefits, they may also—

- (a) include provision enabling a person to elect for such money purchase benefits as are to be provided to or in respect of him under the regulations to be purchased from any authorised provider whom he may specify; and
- (b) notwithstanding paragraph (1), provide that the making of such an election shall have the effect, in such cases as may be specified in the regulations, of discharging any liability of the Department of Health and Social Services to pay those benefits to or in respect of that person;

but no regulations under this Article shall be so framed as to have the effect that any money purchase benefits to be provided under them may only be provided in a manner which discharges that liability of that Department.]

(3) Where the regulations provide for the making of any such payment as is referred to in paragraph 3, 5 or 6 of Schedule 3, they may also provide for the payment to be made by the Ministry of Health and Social Services.

[<sup>F2</sup>(3A) Notwithstanding anything in the Pensions (Increase) Act (Northern Ireland) 1971, regulations under this Article may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

- (a) by contributions from employers of health staff or from such other persons or classes of person (apart from health staff) as the Department of Health and Social Services may consider appropriate and may specify in the regulations; or

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*Status: Point in time view as at 28/04/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Superannuation (Northern Ireland) Order 1972, Section 12. (See end of Document for details)*

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(b) by contributions from such of those employers or other persons as may be so specified; and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this paragraph and for the time being in force.]

(4) Before making any such regulations the Ministry of Health and Social Services shall consult with such representatives of persons likely to be affected by the proposed regulations as appear to that Ministry to be appropriate.

(5) The Ministry of Health and Social Services may direct that regulations made under this Article shall, subject to such modifications as may be provided in the direction, apply to any person specified in the direction—

(a) who is wholly or mainly engaged in [<sup>F6</sup>health care] or [<sup>F7</sup>social care], whether provided under the Health Services Act (Northern Ireland) 1971 <sup>F8</sup> or otherwise, but not provided by a local authority; and

(b) who, if he were in the employment of an employing authority within the meaning of the regulations, would be an officer within the meaning of those regulations,

as if the person were, within the meaning of the regulations, an officer in the employment of the employing authority.

(6) The Ministry of Health and Social Services may direct that regulations made under this Article shall, subject to such modifications as may be provided in the direction, apply to any person specified in the direction who, while continuing in or within twelve months after leaving employment in which he was entitled to participate in the benefits for which the regulations provide (any period spent by that person on an approved course of study or training within the meaning of the regulations being left out of account), enters such other employment as may be approved by that Ministry for the purposes of this paragraph as if, while in that other employment, that person were, within the meaning of the regulations, an officer in the employment of an employing authority, and, in that event, the regulations shall apply accordingly to that person.

(7) A direction under paragraph (6) may be expressed to take effect as from the date of a person's entry into employment notwithstanding that the direction or the approval of that employment for the purposes of that paragraph was not given until after that date.

(8) A direction under paragraph (6) shall not be varied or revoked by a subsequent direction so as to exclude from the benefits for which the regulations provide any person previously entitled thereto, unless—

(a) the Ministry of Health and Social Services is satisfied that other suitable superannuation arrangements are available for that person; and

(b) that person consents to his being so excluded;

and, where any subsequent direction results in such an exclusion of any such person, it may contain provision for the payment of a transfer value in respect of that person.

(9) The Ministry of Health and Social Services may enter into an agreement with the governing body of any hospital not vested in that Ministry for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the benefits for which regulations made under this Article provide in like manner as officers of any corresponding class to whom the regulations apply, and the regulations shall apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.

(10) The governing body of any such hospital as is referred to in paragraph (9) shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which its officers are admitted to such participation as aforesaid.

[<sup>F2</sup>(11) In this Article—

[<sup>F9</sup>“authorised provider” has the meaning given in Article 3;]

“money purchase benefits” has the meaning given by [<sup>F10</sup> section 176(1) of the Pension Schemes (Northern Ireland) Act 1993].]

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| <b>F1</b>  | Art. 12: words in heading substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(b)</a> (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, <b>art. 2</b> |
| <b>F2</b>  | <a href="#">1990 NI 13</a>  |
| <b>F3</b>  | Words in art. 12(1)(a) substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(b)</a> (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, <b>art. 2</b>    |
| <b>F4</b>  | Words in art. 12(1)(a) substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(a)</a> (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, <b>art. 2</b>    |
| <b>F5</b>  | Art. 12(1A) inserted (28.4.2014) by <a href="#">Public Service Pensions Act (Northern Ireland) 2014 (c. 2), s. 37(2), Sch. 8 para. 14</a> ; S.R. 2014/123, art. 2(1)(r)   |
| <b>F6</b>  | Words in art. 12(5)(a) substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(b)</a> (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, <b>art. 2</b>    |
| <b>F7</b>  | Words in art. 12(5)(a) substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(a)</a> (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, <b>art. 2</b>    |
| <b>F8</b>  | <a href="#">1972 NI 14</a>  |
| <b>F9</b>  | <a href="#">SI 2002/1555</a>  |
| <b>F10</b> | <a href="#">1993 c. 49</a>  |

**Status:**

Point in time view as at 28/04/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Superannuation (Northern Ireland) Order 1972, Section 12.