

2002 No. 129

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Additional Voluntary Contributions) (Amendment)
Regulations (Northern Ireland) 2002**

Made 28th March 2002

Coming into operation 9th May 2002

The Department of Health, Social Services and Public Safety(**a**), in exercise of the powers conferred on it by Articles 12(1), (2), (2A)(**b**) and (3) and 14(**c**) (1), (2), (3) and (3A)(**d**) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**e**) and of all other powers enabling it in that behalf, after consulting with such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate as required by Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

Citation, commencement and retrospective effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2002.

(2) These Regulations shall come into operation on 9th May 2002 and regulation 9 shall have effect from 1st December 1999.

Interpretation

2. In these Regulations—

“the principal Regulations” means the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999(**f**);

“the 1995 Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(**g**).

(a) See S.I. 1999/283 (N.I. 1): Article 3(6)
(b) Paragraph (2A) and paragraph 11 were inserted by Article 10(5) and Article 10(6) of S.I. 1990/1509 (N.I. 13)
(c) Article 14 of the Superannuation (Northern Ireland) Order was amended by Article 12 of S.I. 1990/1509 (N.I. 13)
(d) As inserted by Article 12(3) of S.I. 1990/1509 (N.I. 13)
(e) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(f) S.R. 1999 No. 294
(g) S.R. 1995 No. 95 as amended by S.R. 1997 No. 217; S.R. 1997 No. 390; S.R. 1998 No. 299; S.R. 1999 No. 293 and S.R. 2002 No. 69

Amendment of regulation 2 of the principal Regulations

3. In regulation 2 (*Interpretation*)—

(a) after the definition of “authorised fund” there shall be inserted the following definition—

“ “authorised provider” has the meaning given to it by Article 12(11) of the Superannuation (Northern Ireland) Order 1972(a);”

(b) in the definition of “date of retirement” after the words “regulations 12 to 17” there shall be inserted “or regulation 49”;

(c) for the definition of “dependant” there shall be substituted—

“ “dependant” means—

(a) a surviving spouse of a participator (providing the marriage was not, prior to 1st April 1995, subject to an order of judicial separation);

(b) any surviving child of a participator; or

(c) any person in whose favour a participator has made an election under regulation 39 of the 1995 Regulations (*allocation of pension*);”

(d) for the definition “participator” there shall be substituted—

“participator” means—

(a) a contributor who has made a benefit election under regulation 11(3);

(b) a contributor who has died;

(c) a person who has ceased to be a contributor but has not exercised any right to receive a cash equivalent within the meaning of section 90 of the Pension Schemes (Northern Ireland) Act 1993(b) or to be paid a lump sum under regulation 14 (Repayment of investments in certain cases); or

(d) a person in respect of whom investments have been made under regulation 7(1), 8(2) or 9(4);

(e) after the definition of “salary” there shall be inserted the following definition:—

“ “Tax year” means the 12 months beginning with 6th April in any year;”.

Amendment of regulation 3 of the principal Regulations (Making and acceptance of elections)

4. In regulation 3(2) (Making and acceptance of elections) for the word “contributors” there shall be substituted the word “contributor’s”.

(a) Paragraph (11) was inserted in Article 12 by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))

(b) 1993 c. 49. Section 90 was amended by Article 150 of S.I. 1995/3213 (N.I. 22)

Amendment of regulation 4 of the principal Regulations (Payment and amount of additional voluntary contributions)

5. In regulation 4(2) (Payment and amount of additional voluntary contributions) for the figure “10” there shall be substituted the figure “7”.

Amendment of regulation 5 of the principal Regulations (Variation and cancellation of elections)

6. In regulation 5(1)(b) (Variation and cancellation of elections) for the words “of them to be invested in future in some authorised fund;” there shall be substituted “of any future contributions to be invested in some other authorised fund;”.

Amendment of regulation 6 of the principal Regulations (Circumstances in which elections cease to have effect)

7. In regulation 6(a) (Circumstances in which elections cease to have effect) after the words “regulations 12 to 17” there shall be inserted the words “or regulation 49”.

Amendment of regulation 9 of the principal Regulations (Inward transfers: mis-sold pensions)

8. In regulation 9(1) (inward transfers: mis-sold pensions) after the words “the 1995 Regulation applies” there shall be inserted the word “and”.

Amendment of regulation 11 of the principal Regulations (Retirement and dependant’s pensions)

9. After regulation 11(5) (Retirement and dependant’s pensions) there shall be inserted the following—

“(5A) Notwithstanding whether benefits to which a participator may be entitled under regulations 12 to 17 or regulation 49 of the 1995 Regulations (benefits for members or preserved pensions) are payable, where a participator’s date of retirement falls on or after 1st December 1999 and he has—

(a) reached the age of 75; and

(b) failed to give notice of election under paragraph (3) on or before the date of his 75th birthday,

the Department may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of a pension policy from an insurance company in order to provide such benefits as appear to be suitable.”.

Amendment of regulation 15 of the principal Regulations (Payments by the Department)

10.—(1) In regulation 15(9) (Payments by the Department) after the words “regulations 12 to 17” there shall be inserted the words “or regulation 49”;

(2) In regulation 15(10) after the words “regulation 13(7)” the words “or 17(5)” shall be deleted.

Amendment of the Schedule to the principal Regulations

11.—(1) In paragraph 3(1) of Part I of the Schedule (Benefit limits) after the words “D is the” there shall be inserted the word “annual”, and after the word “participator’s” there shall be inserted the word “adjusted”;

(2) After paragraph 4 of the Schedule there shall be inserted the following paragraph—

“4A. “Permitted amount” means—

(a) in relation to a retirement pension, the amount determined in accordance with whichever of paragraphs 8 to 13 is applicable in the case of the participator;

(b) in relation to dependants’ pensions, the amount determined in accordance with whichever of paragraphs 14(2) or (3) is applicable in the case of a participator; and

(c) in relation to a lump sum on death, the amount determined in accordance with paragraph 15(4).”

(3) In sub-paragraph (1)(a) of paragraph 5 of the Schedule for the words from “within” to “companies” there shall be substituted the following words “Chapter I of Part XIV of the Taxes Act (retirement benefits schemes, approval of schemes)”.

(4) For paragraph 5(2) there shall be substituted the following paragraph—

“(2) Where the participator joined the HPSS Superannuation scheme on or after 1st June 1989, retained benefits may be ignored if his salary during the first year of being employed by an employing authority does not exceed one quarter of the permitted maximum under section 590C of the Taxes Act (conditions for approval of retirement benefit schemes: earnings cap).”

(5) After paragraph 5(2) there shall be inserted the following paragraphs—

“(3) Where the participator joined the HPSS Superannuation scheme before 1st June 1989, retained benefits may be ignored if his salary during the year in which he made an election under regulation 3 did not exceed one quarter of the permitted maximum under section 590C of the Taxes Act.

(4) “Pension” includes the actuarial equivalent as an annual pension, as determined by the Board of the Inland Revenue, of any lump sum.”.

(6) After paragraph 6 there shall be added the following paragraphs:—

“6A. “Total taxable earnings” means all salary, wages, fees and other regular payments made to a participator in respect of superannuable employment which are chargeable to income tax under Schedule D or Schedule E to Part I of the Taxes Act.

6B. “The year in question” means—

(a) in the case of a practitioner—

(i) a 12 month period running from 1st April to 31st March, or

(ii) a 12 month period beginning immediately prior to the practitioner's date of termination of employment, whichever is more favourable to the practitioner; or

(b) in any other case, a 12 month period beginning immediately prior to the participator's date of termination of employment.”.

(7) In sub-paragraph (3)(b) of paragraph 15 of Part IV of the Schedule (Lump sums on death) for the words “Chapter XIV” there shall be substituted the following words “Chapter IV of Part XIV”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 28th March 2002.

(L.S.)

Leslie Frew
Senior Officer of the Department of
Health, Social Services and Public Safety

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 28th March 2002.

(L.S.)

Rodney Scott
Senior Officer of the Department of
Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations 1999 (S.R. 1999 No. 294) (“the principal Regulations”) which make provision for the payment of additional contributions by persons who are members of the Health and Personal Social Services Superannuation Scheme (“the HPSS Superannuation Scheme”) as constituted by the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (“the 1995 Regulations”).

Regulation 9 has retrospective effect from 1st December 1999 as authorised by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

Regulations 1 and 2 provide for the citation, commencement and interpretation of the Regulations.

In addition to minor amendments to the principal Regulations provision is made for members of the HPSS Superannuation Scheme who have paid additional contributions and secured additional benefits under the principal Regulations to defer the purchase of an annuity, until a time of their choosing, up to and including age 75.

£2.00

Published by The Stationery Office Limited

Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty’s Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N20401. C4. 4/02. Gp. 130. 14567.