

2005 No. 534

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Amendment No. 2) Regulations (Northern Ireland) 2005**

Made - - - - - *28th November 2005*

Coming into operation *16th December 2005*

The Department of Health, Social Services and Public Safety(a) in exercise of the powers conferred upon it by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(b) and of all other powers enabling it in that behalf, and 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. These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 16th December 2005 but—

- (a) regulations 3(1) and (2), 4(1)(a), (b) and (c), (2)(a), (b) and (c), (3), (4)(a), (5), (6), (7), (8) shall have effect from 1st April 2001;
- (b) regulation 4(2)(d), (4)(b) and (c) shall have effect from 1st April 2002;
- (c) regulation 3(3), 4(1)(d) shall have effect from 1st April 2004.

Interpretation

2. In these Regulations “the principal Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(c).

Amendment of regulation 2 of the principal Regulations (Interpretation)

3.—(1) In regulation (2) (Interpretation) of the principal Regulations for the definition of “practitioner” there is substituted—

““practitioner” means—

- (a) a registered medical practitioner, other than a trainee practitioner, who is a principal practitioner, an assistant practitioner, an associate general practitioner, a locum practitioner (other than a person treated as an officer under regulation 83A of the principal Regulations (Participators in pilot schemes)); or
- (b) a registered dentist, other than a person who is paid wholly by way of salary by an employing authority or a person treated as an officer under regulation 83A;”.

(a) See S.I. 1999/283 (N.I.): Article 3(6)

(b) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)

(c) 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, S.R. 2002 No. 69, S.R. 2004 Nos. 103 and 104 and S.R. 2005 No. 155

- (2) The following definitions are inserted in alphabetical order at the appropriate places—
- “assistant practitioner” has the meaning given in paragraph 1 of Schedule 2;
- “associate general practitioner” has the meaning given in paragraph 1 of Schedule 2;
- “locum practitioner” has the meaning given in paragraph 1 of Schedule 2;
- “medical performers list” means a list of registered medical practitioners prepared and published by a Health and Social Services Board pursuant to regulation 4(1) of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004^(a);
- “out of hours services” has the same meaning as in regulation 2 of the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004^(b);
- “principal practitioner” has the meaning given in paragraph 1 of Schedule 2;
- “the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972^(c).”.

Amendment of Schedule 2 of the principal Regulations (Medical and dental practitioners)

- 4.—(1) In paragraph 1 of Schedule 2 (Additional definitions used in this Schedule)—
- (a) in the definition of “assistant practitioner” for the words “a practitioner” there shall be substituted the words “a registered medical practitioner or registered dentist, being a practitioner,”;
- (b) in the definition of “associate general practitioner” for the words “a medical practitioner” there are substituted the words “a registered medical practitioner other than a trainee practitioner”;
- (c) the following definition shall be inserted at the appropriate place—
- ““locum practitioner” means—
- (a) for the period beginning with and including 1st April 2001 to 31st March 2002, a registered medical practitioner other than a trainee practitioner who—
- (i) is not a principal practitioner, associate general practitioner, an assistant practitioner or a person who is being treated as a practitioner under regulation 83A (participants in pilot schemes); and
- (ii) is engaged under a contract for services with a practitioner otherwise than in pursuance of a commercial arrangement with an agent, to deputise or assist in the provision of general or personal medical services under Part IV of the 1972 Order.
- (b) From the period beginning with and including 1st April 2002 to 31st March 2004, a registered medical practitioner, other than a trainee medical practitioner, who is engaged under a contract for services with a practitioner, otherwise than in pursuance of a commercial arrangement with an agent, to deputise or assist in the provision of general medical services or personal medical services under Part IV of the 1972 Order.
- (c) From 1st April 2004 a registered medical practitioner (other than a trainee practitioner) whose name is included in a medical performers list and who is engaged, otherwise than in pursuance of a commercial arrangement with an agent, under a contract for services to deputise or assist temporarily in the provision of primary medical services, except for out of hours services under Part IV of the 1972 Order.”.
- (d) for the definition of “principal practitioner” there shall be substituted—

(a) S.R. 2004 No. 149
(b) S.R. 2004 No. 140
(c) S.I. 1972 /1265

““principal practitioner” means a registered medical practitioner or registered dentist who is included in a list prepared in accordance with Regulations made under Article 57G of the 1972 Order(a);”.

- (2) In paragraph 2(1) of Schedule 2 (Application of Regulations with modifications)—
- (a) after the word “Agency” in both places where it occurs there shall be inserted “or, in the case of a locum practitioner, the relevant Health and Social Services Board”;
 - (b) after paragraph 2(1) there shall be inserted a new sub-paragraph—

“(1A) In sub-paragraph (1) “relevant Health and Social Services Board” means the Health and Social Services Board in whose medical list the practitioner with whom the locum practitioner is engaged under a contract for services is included or the relevant Health and Social Services Board for the purposes of regulation 83A”;
 - (c) at the end of paragraph 2(2) insert the words “(unless and to the extent that paragraph 2A applies in any particular case, any remuneration in respect of locum practitioner work concurrent with practitioner service is excluded from being superannuable earnings).”;
 - (d) in paragraph 2(2) omit the words following “as a practitioner”.
- (3) After paragraph 2 there is inserted—

“Membership: locum practitioners

2A.—(1) Regulation 6 (Membership of the scheme) does not apply to locum practitioners.

(2) A locum practitioner may apply to join the scheme by sending an application to the employing authority and submitting such evidence relating to his service as a locum practitioner and the contributions payable in respect of it as are required by the authority.

(3) On receiving such an application, such evidence and such contributions, the employing authority must submit the application to the Department.

(4) If a locum wishes to apply to join the scheme from a date earlier than 16th December 2005 he must submit an application under paragraph (2)—

- (a) in a case where immediately before 16th December 2005 he is engaged under a contract for services with a practitioner, by virtue of which he is a locum practitioner, not later than twenty weeks after he ceases to be so engaged, and
- (b) in any other case, before 31st August 2006.

(5) Except where sub-paragraph (4) applies, no application may be made under sub-paragraph (2) in respect of a period of engagement as a locum practitioner ending earlier than ten weeks before the date of application.”.

(4) In paragraph 3 (Meaning of “superannuable earnings”)—

- (a) in sub-paragraph (1) for the words “from the beginning” to “means” there shall be substituted the words “in the case of a principal practitioner “superannuable earnings” means”.
- (b) in sub-paragraph (2)(a) after “general ophthalmic services” insert “locum services”;
- (c) after sub-paragraph (3) insert the following sub-paragraph—

“(4) In sub-paragraph (2)(a) locum services shall have the same meaning as for the purposes of paragraph 6.”.

(5) In paragraph 6 (Meaning of superannuable earnings in relation to other practitioners)—

- (a) at the end of sub-paragraphs (2)(a) and (b) there shall be inserted the words “or any payment made to the practitioner in respect of the provision of locum services.”;
- (b) after sub-paragraph (2) there is inserted the following sub-paragraphs—

“(3) In the case of a locum practitioner “superannuable earnings” means all fees and other payments made to the locum practitioner in respect of the provision of locum

(a) 1972 No. 1265 (N.I. 4): Article 57G was inserted by Article 8 of the Primary Medical Services (Northern Ireland) Order 2004 (2004 No. 311 (N.I. 2))

services (but excluding payments made to cover expenses or for overtime), less such expenses as are deductible in accordance with guidance laid down by the Department.

(4) In this paragraph references to the provision of locum services, in relation to a locum practitioner, are to—

(a) before 1st April 2004, general medical services or personal medical services, and

(b) after 1st April 2004, primary medical services, except for out of hours services,

provided by a locum practitioner when engaged under a contract for services with a practitioner, otherwise than in pursuance of a commercial arrangement with an agent, to deputise or assist in the provision of such services.”.

(6) In sub-paragraphs 9(1) and (8) (Officer service treated as practitioner service) after the words “a principal practitioner” there are inserted the words “or a practitioner providing piloted services under an agreement between that practitioner and a Health and Social Services Board”.

(7) After paragraph 9 there is inserted the following paragraph—

“Locum practitioners: breaks between contracts

9A.—(1) Paragraph 4A of regulation 5 does not apply and this paragraph applies instead where a locum practitioner ceases to be engaged as such a practitioner and so ceases to be treated as being in superannuable employment and is re-engaged as such a practitioner before the expiry of a period not exceeding three months from the day on which he so ceases.

(2) For the purposes of these Regulations—

(a) he is treated as continuing to be in qualifying service during the period not exceeding 3 months whilst he is not so engaged and as not being required to rejoin the scheme at the time when he becomes so re-engaged, but

(b) that period does not count as practitioner service (or as a period in superannuable employment).”.

(8) In paragraph 10 (Contributions)—

(a) in sub-paragraph (1) for “2 to 5” there shall be substituted “2 to 5B”, and

(b) after sub-paragraph (5) there is inserted—

“(5A) Locum practitioners must pay their contributions to their employing authority.

(5B) Contributions paid by practitioners under sub-paragraph (4), (5) or (5A) must be paid to the Department no later than the 19th day of the month following that in which they are received from the practitioners.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 28th November 2005.

(L.S.)

D. C. Bingham

A senior officer of the Department of Health, Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 28th November 2005.

(L.S.)

M. McIvor

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995, (the “principal Regulations”) which provide for the superannuation of persons engaged in the Health and Personal Social Services in Northern Ireland.

The Regulations shall have retrospective effect as authorised by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

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

Regulation 3 amends regulation 2 of the principal Regulations (Interpretation) by inserting new definitions including definitions for “practitioner”, medical performers list, out of hours services.

Regulation 4 amends Schedule 2 of the principal Regulations (Medical and dental practitioners). These amendments are mostly connected with admission of locums to the scheme. New definitions are inserted, including a definition of “locum practitioner” and “employing authority” for such practitioners.

Procedures for locums to apply for membership of the scheme are also introduced including arrangements for retrospective access to the scheme in certain cases. Provision is made for time limits for applications for access to the Scheme and for retrospective access.

The definitions of “superannuable earnings” and “superannuable earnings in relation to other practitioners” are amended and provision is made for locums to count short breaks in employment as qualifying service.