
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 256

The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

PART 2

BENEFITS FOR OFFICERS

CHAPTER 6

TRANSFERS

Transfers out

Introduction: rights to transfer value payment

93.—(1) This Chapter supplements the rights conferred by or under Chapter IV of Part IV of the 1993 Act (transfer values).

(2) This Chapter is without prejudice to that Chapter or Chapter V of that Part ^{M1} (early leavers: cash transfer sums and contribution refunds).

(3) Accordingly—

- (a) a member to whom Chapter IV of that Part applies (see [^{F1}section 89] of that Act) is entitled to require the payment of a transfer value in respect of the rights to benefit that have accrued to or in respect of the member under [^{F2}this Section of] the Scheme, and
- (b) a member to whom Chapter V of that Part applies (see section 97AA(1) of that Act) is entitled to a cash transfer sum or a contribution refund in accordance with that Chapter.

(4) Subject to paragraph (5) and the other provisions of this Chapter, any other member is entitled to require such a payment as if such rights had accrued to or in respect of him by reference to the pensionable service the member is entitled to count under [^{F3}this Section of] the Scheme (and references in this Chapter to the member's accrued rights or benefits are to be read accordingly).

(5) Paragraph (4) does not—

- (a) give any rights to an active member,
- (b) give any rights to a pensioner member in respect of the pension to which the member has become entitled, or
- (c) give any rights to a pension credit member in respect of rights that are directly attributable to a pension credit.

Textual Amendments

- F1** Words in reg. 93(3)(a) substituted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social](#)

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Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2015 (S.R. 2015/121), regs. 1(2), 28

- F2** Words in reg. 93(3)(a) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**
- F3** Words in reg. 93(4) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

Marginal Citations

- M1** Chapter 5 (sections 97AA to 97AI) is inserted by Article 241 of the Pensions (Northern Ireland) Order S.I. 2005/255 (N.I. 1)

Applications for statements of entitlement

94.—(1) A member who requires a transfer value payment to be made must apply in writing to the Department for a statement of the amount of the cash equivalent of the member's accrued benefits under [F4 this Section of] the Scheme at the guarantee date (“a statement of entitlement”).

(2) In this Part, “the guarantee date” means any date that—

- (a) falls within the required period,
- (b) is chosen by the Department,
- (c) is specified in the statement of entitlement, and
- (d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(3) In counting the period of 10 days referred to in sub-paragraph (d), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(4) In paragraph (2) “the required period” means—

- (a) the period of 3 months beginning with the date of the member's application for a statement of entitlement, or
- (b) such longer period beginning with that date (but not exceeding six months) as may reasonably be required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(5) The member may withdraw the application for a statement of entitlement by notice in writing at any time before the statement is provided.

Textual Amendments

- F4** Words in reg. 94(1) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

Applications for transfer value payments: general

95.—(1) A member who has applied for and received a statement of entitlement under regulation 94 may apply in writing to the Department for a transfer value payment to be made.

(2) On making such an application a member becomes entitled to a payment of an amount equal, or amounts equal in aggregate, to the amount specified in the statement of entitlement (or such other amount as may be payable by virtue of regulation 96(2)).

(3) In this Part such a payment is referred to as “the guaranteed cash equivalent transfer value payment”.

(4) The application must specify the pension scheme or other arrangement to which the payment or payments should be applied.

(5) The application must meet such other conditions as the Department may require.

(6) An application under this regulation may be withdrawn by notice in writing to the Department, unless an agreement for the application of the whole or part of the guaranteed cash equivalent transfer value payment has been entered into with a third party before the notice is given.

Applications for transfer value payments: time limits

96.—(1) Subject to paragraph (4), an application under regulation 95(1) must be made before the end of the period of 3 months beginning with the guarantee date, and the payment must be made no later than—

- (a) 6 months after that date, or
- (b) if it is earlier, the date on which the member reaches 65.

(2) If the payment is made later than 6 months after the guarantee date, the amount of the payment to which the member is entitled must be increased by—

- (a) the amount by which the amount specified in the statement of entitlement falls short of the amount it would have been if the guarantee date had been the date on which the payment is made, or
- (b) if it is greater and there was no reasonable excuse for the delay in payment, interest on the amount specified in the statement of entitlement, calculated on a daily basis over the period from the guarantee date to the date when the payment is made at an annual rate of 1% above the base rate.

(3) Paragraph (4) applies if—

- (a) disciplinary or court proceedings against the member are begun within 12 months after the member leaves the employment which qualified the member to belong to the Scheme, and
- (b) it appears to the Department that the proceedings may lead to all or part of the member's benefits being forfeited under regulation 130 (forfeiture of rights to benefit).

(4) The Department may defer doing what is needed to carry out what the member requires until the end of the period of 3 months beginning with the date on which those proceedings (including any proceedings on appeal) are concluded.

(5) In any case where a direction is given under regulation 130 for the forfeiture of a member's benefits, this regulation applies as if the amount specified in the statement of entitlement were reduced by an amount equal to the value of the benefits forfeited, as determined by the Scheme actuary.

(6) In respect of an applicant who ^{F5}falls within regulation 93(4)] —

- (a) in the case of an application that requires the guaranteed cash equivalent transfer value payment to be made to a registered occupational pension scheme or a registered personal pension scheme, an application under paragraph (1) may only be made if—
 - (i) the applicant became a member of that scheme not later than the end of the period of 12 months beginning with the day after the date on which the member ceased to be in the pensionable service in which the rights accrued (“the leaving date”), and

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- (ii) the application is made not later than—
 - (aa) the end of the period of 12 months beginning with the day on which the applicant became a member of that scheme, or
 - (bb) if the applicant became a member of that scheme on or before the leaving date, the end of the period of 12 months beginning with the day after the leaving date;
- (b) in any other case, an application under paragraph (1) may only be made before the end of the period of 12 months beginning with the day after the leaving date.

Textual Amendments

- F5** Words in [reg. 96\(6\)](#) substituted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/121\)](#), regs. 1(2), **29**

Ways in which transfer value payments may be applied

97.—(1) [^{F6}If Chapter IV of Part IV of the 1993 Act applies to a member, that member] may only require the Department to apply the guaranteed cash equivalent transfer value payment in one or more of the ways permitted under section 91 of the 1993 Act.

[^{F7}(2) In any other case, a member may only require the Department to apply the guaranteed equivalent transfer value payment in one or more of the ways permitted under section 97AE of the 1993 Act.]

(3) The whole of the guaranteed cash equivalent transfer value payment must be applied, unless paragraph (4) applies.

(4) The benefits attributable to—

- (a) the member's accrued rights to a guaranteed minimum pension, or
- (b) the member's accrued rights attributable to service in contracted-out employment on or after 6th April 1997,

may be excluded from the guaranteed cash equivalent transfer value payment if section 92(2) of the 1993 Act applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member's other rights).

(5) A transfer payment may only be made to—

- (a) a pension scheme that is registered under Chapter 2 of Part 4 of the Finance Act 2004, or
- (b) an arrangement that is a qualifying recognised overseas pension scheme for the purposes of that Part (see section 169(2) of that Act).

Textual Amendments

- F6** Words in [reg. 97\(1\)](#) substituted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/121\)](#), regs. 1(2), **30(2)**
- F7** [Reg. 97\(2\)](#) substituted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/121\)](#), regs. 1(2), **30(3)**

Calculating amounts of transfer value payments

98.—^[F8](1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the Department in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996. This is subject to paragraphs (2), (3) and (5).

(2) Before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, the Department shall take advice from the Scheme actuary.]

(3) If, subject to paragraph (5), the amount calculated in accordance with paragraph (1) is less than the member's minimum transfer value (if any), the amount of the guaranteed cash equivalent transfer value payment is to be equal to that value instead.

^[F9](4) In paragraph (3) “minimum transfer value” means—

(a) in the case of a person other than a 2008 Section Optant, the sum of—

- (i) any transfer value payments that have been made to this Section of the Scheme in respect of the person as a result of which the person is entitled to count any pensionable service under this Section of the Scheme by reference to which the accrued rights subject to the transfer are calculated, and
- (ii) any contributions paid by the person under Chapter 3 of this Part as a result of which the person is entitled to count such service;

(b) in the case of a 2008 Section Optant, the sum of—

- (i) any transfer value payments that have been made to this Section of the Scheme in respect of the person as a result of which the person is entitled to count any pensionable service under this Section of the Scheme by reference to which the accrued rights subject to the transfer are calculated,
- (ii) any contributions paid by the person under Chapter 3 of this Part as a result of which the person is entitled to count such service, and
- (iii) the aggregate of any—
 - (aa) transfer value payments that have been made to the 1995 Section in respect of the Optant;
 - (bb) any contributions paid by the Optant under regulation 10 of the 1995 Regulations (Contributions by members) in respect of superannuable employment in that Section on or before 31st March 2008; and
 - (cc) any payments made by the Optant under regulation 67 of the 1995 Regulations (Right to buy additional service) for the purchase of additional service,

which entitle the Optant to count, under Chapter 10 of this Part, any pensionable service by reference to which the accrued rights subject to the transfer are calculated.]

(5) If the transfer value payment is made under the public sector transfer arrangements, the amount of the transfer value payment is calculated—

- (a) in accordance with those arrangements rather than paragraphs (1) and (3), and
- (b) by reference to the guidance and tables provided by the Scheme actuary for the purposes of this paragraph that are in use on the date used for the calculation.

^[F10](6) In the case of a 2008 Section Optant, this regulation is subject to regulation 136L.]

Textual Amendments

F8 Reg. 98(1)(2) substituted (with effect in accordance with reg. 1(3) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\)](#)

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and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **39** (with reg. 89)

F9 Reg. 98(4) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), regs. 1(2), **49(2)**

F10 Reg. 98(6) added (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), regs. 1(2), **49(3)**

Effect of transfers-out

99. If a transfer value payment is made under this Chapter in respect of a person's rights under ^{F11}this Section of] the Scheme, those rights are extinguished.

Textual Amendments

F11 Words in reg. 99 inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

Transfers in

Right to apply for acceptance of transfer value payment from another scheme

100.—(1) Subject to the provisions of this Chapter, an active member may apply for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of him under any kind of scheme or arrangement to which paragraph (2) applies, other than a FSAVC, to be accepted by ^{F12}this Section of] the Scheme.

(2) This paragraph applies to—

- (a) a registered occupational pension scheme ^{F13}other than a corresponding health service scheme],
- (b) a registered personal pension scheme,
- (c) a registered buy-out policy, and
- ^{F14}(d) a corresponding 1995 scheme, and
- (e) a corresponding 2008 scheme.]

^{F15}(2A) A member who makes an application for a transfer value to be accepted by the Department in respect of his rights under a corresponding 2008 scheme may not also make an application for a transfer value to be accepted in respect of his rights under a corresponding 1995 scheme.”;]

(3) Paragraph (1) does not apply to rights that are directly attributable to a pension credit.

(4) In this regulation “FSAVC” means—

- (a) a scheme which—

- (i) immediately before 6th April 2006 was approved by the Commissioners for Her Majesty's Revenue and Customs by virtue of section 591(2)(h) of the Income and Corporation Taxes Act 1988 ^{M2} (free-standing AVC schemes), and
 - (ii) became a registered scheme for the [^{F16}purposes of the Finance Act 2004] by virtue of Schedule 36 to that Act, or
- (b) a scheme established on or after that date as a registered free-standing AVC scheme.
- [^{F17}(5) In the case of a 2008 Section Optant, this regulation is subject to regulation 136M.]

Textual Amendments

- F12** Words in [reg. 100\(1\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [reg. 1\(2\)](#), **Sch. 2 Pt. 1**
- F13** Words in [reg. 100\(2\)\(a\)](#) inserted (with effect in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), [regs. 1\(2\)](#), **40(2)** (with [reg. 89](#))
- F14** [Reg. 100\(2\)\(d\)\(e\)](#) substituted for [reg. 100\(2\)\(d\)](#) (with effect in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), [regs. 1\(2\)](#), **40(3)** (with [reg. 89](#))
- F15** [Reg. 100\(2A\)](#) inserted (with effect in accordance with [reg. 1\(3\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), [regs. 1\(2\)](#), **40(4)** (with [reg. 89](#))
- F16** Words in [reg. 100\(4\)\(a\)\(ii\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Scheme\) and Health and Personal Social Services \(Injury Benefits\) \(Amendment and Transitional Provisions\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/65\)](#), [regs. 1\(2\)](#), **40(5)** (with [reg. 89](#))
- F17** [Reg. 100\(5\)](#) added (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [regs. 1\(2\)](#), **50**

Marginal Citations

- M2** 1988 c. 1

Procedure for applications under regulation 100

- 101.**—(1) An application under regulation 100—
- (a) must be made in writing,
 - (b) must specify the scheme or arrangement from which the transfer value payment is to be made and the anticipated amount of the payment,
- [^{F18}(c) may only be made—
- (i) during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of this Section of the Scheme and before the applicant reaches the age of 65, or

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- (ii) where the applicant is not eligible to be an active member of this Section of the Scheme and the application is made in respect of a transfer from a corresponding 2008 Scheme, during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if on that day paragraph 2 of Schedule 7 to the 2014 Act applies to the period of service in respect of which the transfer value payment will be made,]
- (d) if the Department so requires, may only be made if the member has first requested a statement—
 - (i) in the case of a transfer made under the public sector transfer arrangements, of the service that the member will be entitled to count as a result of the transfer if the payment is accepted by the Department, and
 - (ii) in a case where the transfer is not made under those arrangements [^{F19}(including a transfer of rights from a corresponding 1995 scheme)] , of the service that member will be entitled so to count if the payment is so accepted by the Department within such period as is specified in the statement, and
- (e) must meet such other conditions as the Department may require.
- (2) A statement given to the member in pursuance of [^{F20}such a] request as is mentioned in paragraph (1)(d)—
 - (a) in the case mentioned in paragraph (1)(d)(i), must inform the member of the effect (if any) of regulation 17 (restriction on reckonable pay used for calculating benefits in respect of capped transferred-in service) in the member's case, and
 - (b) in the case mentioned in paragraph (1)(d)(ii), must specify such amount as is calculated in accordance with guidance and tables provided by the Scheme actuary for the purpose.
- [^{F21}(3) A statement given to the member of a corresponding 1995 scheme in pursuance of such a request as is mentioned in paragraph (1)(d) must inform the member of the amount of pensionable service that will count under [^{F22}this Section of] this Scheme for the purposes of—
 - (a) calculating benefits payable to or in respect of the member; and
 - (b) determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8.]

Textual Amendments

- F18** Reg. 101(1)(c) substituted (1.4.2015) by The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/122), reg. 1, **Sch. 2 para. 13**
- F19** Words in reg. 101(1)(d)(ii) inserted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **41(2)** (with reg. 89)
- F20** Words in reg. 101(2) substituted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **41(3)** (with reg. 89)
- F21** Reg. 101(3) added (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **41(4)** (with reg. 89)

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F22 Words in reg. 101(3) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

Acceptance of transfer value payments

102.—(1) If an application is duly made by a member under regulation 100, the Department may accept the transfer value payment if such conditions as it may require are met, unless paragraph [F23(5)] applies.

(2) If the Department accepts the payment—

- (a) the member is entitled to count the appropriate period of pensionable service for the purposes of calculating benefits payable to or in respect of the member under [F24this Section of] the Scheme, but
- (b) in the case of a member any of whose service falls to be treated as capped transferred-in service, with such period as so falls counting as such service.

(3) In paragraph (2)(a) “the appropriate period” means the period calculated in accordance with regulation 103.

[F25(3A) If the Department accepts the payment from the member of a corresponding 1995 scheme, the relevant period of pensionable service shall count when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8.

(3B) In paragraph (3A) “the relevant period” means the period calculated in accordance with regulation 103.]

(4) For the meaning of “capped transferred-in service”, see regulation 104.

(5) The Department may not accept a transfer value payment if—

- (a) it would be applied in whole or in part in respect of the member's or the member's spouse's entitlement to a guaranteed minimum pension, and
- (b) it is less than the amount required for that purpose, as calculated in accordance with guidance and tables prepared by the Scheme actuary for the purposes of this paragraph.

(6) Paragraph (5) does not apply if the transfer would be paid under the public sector transfer arrangements.

[F26(7) In the case of a 2008 Section Optant, this regulation is subject to regulation 136M.]

Textual Amendments

F23 Word in reg. 102(1) substituted (retrospective and with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2013 (S.R. 2013/259), regs. 1(2), **27**

F24 Words in reg. 102(2)(a) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

F25 Reg. 102(3A)(3B) inserted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **42** (with reg. 89)

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F26 Reg. 102(7) added (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), regs. 1(2), 51

Calculation of transferred-in pensionable service

103.—(1) Subject to paragraphs (2) to (6), the period of service that the member is entitled to count under regulation 102 as the result of a transfer is to be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose.

(2) For the purposes of the calculation under paragraph (1) the member's annual pensionable pay is to be taken to be the amount of that pay as at the day on which the member's pensionable service begins (“the starting day”), unless paragraph (3) applies.

(3) If the transfer payment is received by the Department more than 12 months after the starting day, the member's annual pensionable pay is to be taken to be the amount of that pay as at the day on which the transfer payment is received.

(4) But paragraph (3) does not apply if—

- (a) a written statement estimating the pensionable service that the member would be entitled to count as a result of the transfer was given to the member by the Department during the period of 3 months ending 12 months after the starting day, and
- (b) the transfer payment is received by the Department less than 3 months after the date of the statement.

(5) If the transfer value payment is accepted under the public sector transfer arrangements, the period of pensionable service the member is entitled to count is calculated—

- (a) in accordance with those arrangements, and
- (b) by reference to the guidance and tables provided by the Scheme actuary for the purposes of this paragraph, that are in use on the date that is used by the transferring scheme for calculating the transfer value payment.

(6) If the transfer value payment is accepted from a [^{F27}corresponding 2008 scheme] , the period of pensionable service the member is entitled to count is the period that the member would be entitled to count if—

- (a) the member's employment to which that scheme applied was HSC employment in respect of which the member was a member of [^{F28}this Section of] the Scheme, and
- (b) the member's contributions to that scheme were contributions to [^{F28}this Section of] the Scheme.

^{F29}(7)

[^{F30}(7) In the case of a 2008 Section Optant, this regulation is subject to regulation 136M.]

Textual Amendments

F27 Words in reg. 103(6) substituted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), 43(2) (with reg. 89)

F28 Words in reg. 103(6) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature

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Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 1**

F29 Reg. 103(7) omitted (with effect in accordance with reg. 1(3) of the amending Rule) by virtue of The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), **43(3)** (with reg. 89)

F30 Reg. 103(7) added (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), regs. 1(2), **52**

Meaning of “capped transferred-in service”

104.—(1) This regulation applies if—

- (a) the Department accepts a transfer value payment in respect of a member under a transfer to which the public sector transfer arrangements apply, and
- (b) the service in respect of which the transfer is made was, or included, capped service in employment to which the Scheme from which the transfer value payment is made (“the transferring scheme”) applied.

(2) For the purposes of this Part, the same proportion of the service that the member is entitled to count under regulation 102(2)(a) as the capped service bears to the whole of the service in respect of which the transfer is made is capped transferred-in service.

(3) For the purposes of paragraph (1)(b), the service in respect of which the transfer is made was capped service so far as—

- (a) in the case of service before 6th April 2006, the member was an active member of the transferring scheme whose pension under that scheme in respect of the service was to be calculated by reference to remuneration limited in each tax year to the permitted maximum for that year within the meaning of section 590C(2) of the Income and Corporation Taxes Act 1988 ^{M3}, or
- (b) in the case of service on or after 6th April 2006, the member was an active member of the transferring scheme whose pension under that scheme in respect of the service was to be calculated by reference to remuneration limited in each tax year to an amount calculated in the same manner as the permitted maximum under that section was calculated for tax years ending before that date.

(4) For the purposes of paragraph (3), it does not matter whether, apart from the application of the limit, the member's remuneration in any tax year would have exceeded the amount of the limit.

[^{F31}(5) In the case of a 2008 Section Optant, this regulation is subject to regulation 136M.]

Textual Amendments

F31 Reg. 104(5) added (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), regs. 1(2), **53**

Marginal Citations

M3 1988 c. 1

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[^{F32}Public sector transfer arrangements

105.—(1) This Chapter applies to a transfer where—

- (a) the member is an active member of the 2015 Scheme,
- (b) the member makes an application under regulation 100 for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of the member under—
 - (i) an existing scheme listed in Schedule 5 to the 2014 Act,
 - (iii) another occupational pension scheme that participates in the Public Sector Transfer Club,
- (c) the application under regulation 100 is made within one year beginning with the day the member became eligible to be an active member of the 2015 Scheme and before the member reaches the member’s normal pension age in the 2015 Scheme,
- (d) the transfer value payment is made and accepted under the public sector transfer arrangements, and
- (e) on the day the transfer is completed, paragraph 2 of Schedule 7 to the 2014 Act applies to the period of service in respect of which the transfer value payment is made.

(2) This Chapter also applies in the case of any other transfer to which the public sector transfer arrangements apply (not being a transfer referred to in paragraph (1)) as it applies in other cases, except to the extent that—

- (a) any provision in this Chapter provides otherwise, or
- (b) the arrangements themselves make different provision.]

Textual Amendments

F32 Reg. 105 substituted (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), reg. 1, **Sch. 2 para. 14**

Bulk transfers out

106.—(1) This regulation applies if—

- (a) the employment of one or more active members (“the transferring employees”) is transferred without their consent to a new employer,
- (b) on that transfer the transferring employees cease to be eligible to be active members of [^{F33}this Section of] the Scheme,
- (c) after that transfer the transferring employees become active members of another occupational pension scheme (“the new employer's scheme”),
- (d) the Department has agreed special terms for the making of transfer value payments in respect of the transferring employees to the new employer's scheme, after consultation with the Scheme actuary, and
- (e) the transferring employees have consented in writing to their rights being transferred in accordance with those terms.

(2) In the case of the transferring members or the transferred members the transfer value payment to be paid—

- (a) is not calculated in accordance with regulation 98, but

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- (b) is to be such amount as the Department determines to be appropriate in accordance with the special terms after consulting the Scheme actuary.
- (3) This Chapter has effect with such modifications as are necessary to give effect to those terms.
- (4) If the transfer is directly or indirectly attributable to a statutory provision this Chapter has effect with such modifications as the Department considers necessary in consequence of the transfer.
- (5) Where a member to whom this regulation applies is also a member to whom Part 3 applies, a bulk transfer under this regulation also operates as a transfer of that member's rights under Part 3.

Textual Amendments

F33 Words in [reg. 106\(1\)\(b\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [reg. 1\(2\)](#), **Sch. 2 Pt. 1**

Bulk transfers in

- 107.**—(1) This regulation applies if—
- (a) the employment of one or more persons (“the transferred employees”) is transferred without their consent to a new employer,
 - (b) on that transfer the transferred employees cease to be active members of an occupational pension scheme (“the former employer's scheme”),
 - (c) after that transfer the transferred employees become active members of [^{F34}this Section of] the Scheme,
 - (d) the Department has agreed special terms for the acceptance of transfer value payments in respect of the transferred employees from the former employer's scheme, after consulting the Scheme actuary, and
 - (e) the transferred employees have consented in writing to their rights being transferred in accordance with those terms.
- (2) [^{F35}This Section of] the Scheme has effect with such modifications as are necessary to give effect to the terms mentioned in paragraph (1)(e).
- (3) If the transfer is directly or indirectly attributable to a statutory provision [^{F35}this Section of] the Scheme has effect with such modifications as the Department considers necessary in consequence of the transfer.

Textual Amendments

F34 Words in [reg. 107\(1\)\(c\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [reg. 1\(2\)](#), **Sch. 2 Pt. 1**

F35 Words in [reg. 107\(2\)\(3\)](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending Rule) by [The Health and Personal Social Services \(Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions\), and Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/22\)](#), [reg. 1\(2\)](#), **Sch. 2 Pt. 1**

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EU and other overseas transfers

108.—(1) This regulation applies in the case of a member whose transfer is subject to transfer arrangements concluded with any scheme for the provision of retirement benefits established outside the United Kingdom.

(2) The Scheme applies in relation to the member with such modifications as the Department considers necessary to comply with—

- (a) the terms of those arrangements,
- (b) any applicable provision contained in or made under any statutory provision, and
- (c) the requirements to be met by a scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

[^{F36}Transfers across

Textual Amendments

F36 Reg. 108A and cross-heading inserted (with effect in accordance with reg. 1(3) of the amending Rule) by The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) and Health and Personal Social Services (Injury Benefits) (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009 (S.R. 2009/65), regs. 1(2), 44 (with reg. 89)

Transfers across from the [^{F37}1995 Section]

108A.—(1) An active member who is entitled to have a cash equivalent value calculated in respect of the entirety of the member's rights under the [^{F38}1995 Section], pursuant to regulation 59 of the 1995 Regulations, may apply to convert that cash equivalent value into rights under this [^{F39}Section of the] Scheme.

(2) An application under paragraph (1)—

- (a) must be made in writing using an application form provided for the purpose by the Department;
- (b) may only be made before the end of the period of three months beginning with the guarantee date established under regulation 59 of the 1995 Regulations;
- (c) may only be made if the member has first been furnished with a statement of the pensionable service that the member will be entitled to count under this [^{F40}Section of the] Scheme if the application is accepted by the Department;
- (d) must meet such other conditions as the Department may require; and
- (e) is irrevocable.

(3) The statement mentioned in paragraph (2)(c) must—

- (a) inform the member of the amount of pensionable service that will count under this [^{F41}Section of the] Scheme for the purposes of calculating benefits payable to or in respect of the member;
- (b) inform the member of the amount of pensionable service that will count under this [^{F41}Section of the] Scheme when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulations 7 and 8; and
- (c) be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose.

- (4) If the Department accepts an application under paragraph (1)—
- (a) the member is entitled to count under this [F42Section of the] Scheme the periods of pensionable service mentioned in sub-paragraphs (a) and (b) of paragraph (3) for the purposes specified therein; and
 - (b) those periods of pensionable service shall be credited to the member on the day that the Department received the member’s application.]

Textual Amendments

- F37** Words in reg. 108A heading substituted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 2**
- F38** Words in reg. 108A(1) substituted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 2**
- F39** Words in reg. 108A(1) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 3**
- F40** Words in reg. 108A(2)(c) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 3**
- F41** Words in reg. 108A(3)(a)(b) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 3**
- F42** Words in reg. 108A(4)(a) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by The Health and Personal Social Services (Superannuation Scheme, Compensation for Premature Retirement and Additional Voluntary Contributions), and Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/22), reg. 1(2), **Sch. 2 Pt. 3**

[F43Right to transfer a deferred pension to the 2015 Scheme

108B.—(1) An active member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Department to use the cash equivalent of the member’s rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

- (2) Condition A is that the member—
- (a) is a deferred member of this Section of the Scheme, and
 - (b) became an active member of the 2015 Scheme before attaining the age of 65.
- (3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).
- (4) Condition C is that the member—

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- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
 - (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.
- (5) For the purposes of paragraphs (3) and (4) any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2014 Act is to be disregarded.
- (6) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").
- (7) In this regulation "the guarantee date" means any date that falls within the required period and is—
- (a) chosen by the Department,
 - (b) specified in the statement of entitlement, and
 - (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.
- (8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.
- (9) In paragraph (7), "the required period" means—
- (a) the period of three months beginning with the date that the Department receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
 - (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.
- (10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.
- (11) The Department shall—
- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
 - (a) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996.
- (12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 102 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this section of the scheme.
- (13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Department for the cash equivalent of the member's rights under this section of the scheme to be used to acquire rights under the 2015 Scheme.
- (14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—
- (a) to be made in writing on the form provided for this purpose by the Department;
 - (b) to be made before the end of the period of three months beginning with the guarantee date;
 - (c) irrevocable.
- (15) On the making of such an application—

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- (a) member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
 - (b) the member's rights under this section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.
- (16) A member's right to require the Department to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.]

Textual Amendments

F43 Reg. 108B inserted (1.4.2015) by [The Health and Personal Social Services \(Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits\), Health and Social Care \(Pension Scheme\) \(Amendment\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/121\)](#), regs. 1(2), **31**

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Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- [reg. 49\(9A\)](#) inserted by [S.R. 2024/117 reg. 12\(6\)](#)