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STATUTORY RULES OF NORTHERN IRELAND

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**2010 No. 286**

**The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010**

**PART 2**

**Amendment of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995**

**Part 2: General**

**2.** The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(1) shall be amended as provided by regulations 3 to 15.

**Amendment of regulation 2**

**3.** In regulation 2 (Interpretation)—

(a) in the definition of “GMS practice”—

(i) in paragraph (a), after “registered medical practitioner” insert “who is a principal medical practitioner”,

(ii) in paragraph (b), after “or more” insert “such”;

(b) for paragraph (b) of the definition of “host Health and Social Services Board”, substitute—

“(b) in respect of a principal practitioner, means the Regional Health and Social Care Board with whom the practitioner has contracted, or entered into an agreement, to provide GMS or APMS and on whose medical performers list the practitioner’s name appears;”;

(c) in the definition of “ophthalmic provider”, after “who” insert “is a principal medical practitioner and who”;

(d) for the definition of “registered medical practitioner” substitute—

““registered medical practitioner” has the meaning given in section 55 of the Medical Act 1983(2);”;

(e) at the appropriate place in the alphabetical order insert,—

““Waiting Period Joiner” has the meaning given in regulation 136Y, or as the case may be, 260X of the 2008 Section;”.

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(1) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390; S.R. 1998 No. 299; S.R. 1999 No.293; S.R. 2002 No.69; S.R. 2004 Nos.103 and 104; S.R. 2005 Nos.155, 533, 534 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.96, 130 and 163; S.R. 2009 Nos.65 and 188; S.R. 2010 No.22

(2) 1983 c.54

## **Amendment of regulation 7**

4.—(1) Regulation 7 (Restrictions on membership) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1)—

(a) for sub-paragraph (f), substitute—

“(f) that person enters HSC employment for the first time on, or after 1st April 2008 and has not previously been a member of this Section of the Scheme or a health service scheme corresponding to this Section;”;

(b) in sub-paragraph (g)—

(i) after “returns to”, insert “or commences”;

(ii) after “last left”, insert “superannuable”;

(c) in sub-paragraph (h)(ii) after “returning to”, insert “or commencing”;

(d) for sub-paragraph (j)(iii), substitute—

“(iii) returns to, or commences for the first time, HSC employment on or after 1st October 2008 and, before that employment starts (whether it is employment that has been returned to or commenced for the first time) exercises the member’s right to transfer out all of that person’s benefits in accordance with regulation 53,”;

(e) in sub-paragraph (k)(ii), after “returns to” insert “or commences”;

(f) after sub-paragraph (k), add—

“(l) that person’s pension under a health service scheme is payable and in the opinion of the Department that person would not be eligible to—

(i) join this Section of the Scheme,

(ii) where appropriate, accrue further superannuable service under this Section of the Scheme,

if the superannuable employment to which that health service scheme applied, and in respect of which that pension is being paid, had been superannuable employment in this Section of the Scheme;

(m) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation 49,

(ii) has given notice in accordance with paragraphs (1) or (1A) of regulation 9 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme,

(iii) as a result of that notice, has been treated as having left all superannuable employments, and

(iv) pursuant to that notice remains opted-out of this Section of the Scheme for any one period of five years or more beginning on the date that notice takes effect;

(n) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation 49,

(ii) has given notice in accordance with paragraphs (1) or (1A) of regulation 9 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme,

(iii) following that notice, has had a break in superannuable employment for any one period of five years or more, comprising the aggregate of—

- (aa) any period during which the person leaves HSC employment, and
- (bb) any period during which the person is treated as never having been included in this Section of the Scheme in accordance with paragraph (3) of regulation 9 in respect of one or more later periods of HSC employment entered into after having given the notice referred to in head (ii);
- (o) that person is a person who—
  - (i) enters HSC employment before 1st April 2008,
  - (ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9, and
  - (iii) as a result of that notice on 1st April 2008 is treated as never having been in superannuable employment with any employing authority in accordance with paragraph (3) of regulation 9;
- (p) that person is a person who—
  - (i) enters HSC employment before 1st April 2008,
  - (ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9,
  - (iii) as a result of that notice has been treated as having left superannuable employment with all employing authorities for a period of 12 months or more, and
  - (iv) is not entitled to a preserved pension in accordance with regulation 49;
- (q) that person is a person who—
  - (i) enters superannuable employment before 1st April 2008,
  - (ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9,
  - (iii) is not entitled to a preserved pension in accordance with regulation 49, and
  - (iv) has, in respect of that superannuable employment, either received a repayment of contributions or exercised the right to a transfer payment under Part VI.”.

(3) In paragraph (2)(c), for “regulations 49, 50” substitute “regulations 13, 13A, 49, 50, 52,”.

### **Amendment of regulation 13B**

5. For paragraph (2)(e) of regulation 13B (Re-assessment of ill-health condition determined under regulation 13A), substitute—

- “(e) the member is not—
  - (i) a 2008 Section Optant within the meaning of regulation 136A or 260A of the 2008 Section of the Scheme, or
  - (ii) a Waiting Period Joiner within the meaning of regulation 136Y or 260X of the 2008 Section of the Scheme,

who has become entitled to a tier 2 ill-health pension under regulation 52 or 182 of that Section.”.

#### **Amendment of regulation 16**

6. In paragraph (2) of regulation 16 (Early retirement pension (with actuarial reduction)), for “but” substitute “and, except for any pension in respect of service calculated as a result of exercising the right to buy additional service under regulation 67 or the right to buy an unreduced retirement lump sum under regulation 68,”.

#### **Amendment of regulation 17**

7. In paragraph (7)(b) of regulation 17 (Lump sum on retirement), after “will” insert “, except for any lump sum in respect of service calculated as a result of exercising the right to buy additional service under regulation 67 or the right to buy an unreduced retirement lump sum under regulation 68,”.

#### **Amendment of regulation 22**

8. After paragraph (12) of regulation 22 (Payment of lump sum), add—

“(13) In the case of a Waiting Period Joiner, a notice given by a member for the purposes of regulation 87 or 214 of the 2008 Section of the Scheme shall be treated as a nomination or notice given by the member for the purposes of this regulation.”.

#### **Amendment of regulation 25**

9. For paragraph (3)(a) of regulation 25 (Member dies after pension becomes payable), substitute—

- “(a) the member is—
- (i) a 2008 Section Optant within the meaning of regulation 136A or regulation 260A of the 2008 Section of the Scheme, or
  - (ii) a Waiting Period Joiner within the meaning of regulation 136Y or 260X of that Section, and”.

#### **Amendment of regulation 31E**

10. After paragraph (9) of regulation 31E (Surviving nominated partner’s pension), add—

“(10) In the case of a Waiting Period Joiner, a declaration or notice given by a member for the purposes of regulation 68 or 195 of the 2008 Section of the Scheme shall be treated as a declaration or notice given by that member for the purposes of this regulation.”.

#### **Amendment of regulation 35**

11. In paragraph (2) of regulation 35 (Member dies after pension becomes payable)—

- (a) in sub-paragraph (b)(i), after “regulation 260A” insert “or a Waiting Period Joiner within the meaning of regulation 136Y or 260X”;
- (b) in sub-paragraph (b)(ii), after “2008 Section Optant” insert “or Waiting Period Joiner”.

### **Amendment of regulation 59**

12. In paragraph (3)(b) of regulation 59 (Member's right to transfer a preserved pension to the 2008 Section), after "7(1)(k)" insert "or 7(1)(m) or (n)".

### **Amendment of regulation 73**

13. For paragraph (6) of regulation 73 (Part payment for additional service or unreduced retirement lump sum), substitute—

“(6) If the member becomes entitled to receive benefits before the chosen date under regulation 72(3), the proportion of additional service or unreduced retirement lump sum to be credited to the member will be—

- (a) calculated as described in paragraph (5), and
- (b) then reduced by reason of the early payment of the pension and the lump sum by such amounts as the Department, after taking the advice of the Scheme Actuary, shall determine.”.

### **Substitution of regulation 73J**

14. For regulation 73J (Revaluation of increases bought under options: members' pensions), substitute—

#### **“Revaluation of increases bought under options: members' pensions**

**73J.**—(1) Where an option under regulation 73A, 73C or 73D has been exercised, the final amount of the increase in a member's pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 73G to 73I, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971(3) on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 73G to 73I, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).

(6) In this regulation, “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971 (see section 8(2) of that Act).”.

## **Amendment of Schedule 2**

**15.** In paragraph 10(8)(b) of Schedule 2 (Contributions to this Section of the Scheme), for “shall pay the contributions” substitute “shall pay regulation 11(1) contributions”.