EXPLANATORY MEMORANDUM TO

The Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012

S.R. 2012 No. 78

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety (DHSSPS) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 12(1), (2), 14(1), (2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. This rule amends two statutory rules relating to pensions and benefits provided for Health and Social Care staff; the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (S.R.1995 No.95) and the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 (S.R. 2008 No.256).

2.2. The main purpose of the rule is to implement increases to contribution rates for members of the HSC Pension Scheme from 1 April 2012

2.3. The rule also makes changes that are a consequence of changes made by the Finance Act 2011 and the introduction of the Isle of Man of Government "Unified" pension scheme.

3. Background

Increases to member contributions

3.1 The Independent Public Service Pensions Commission, chaired by Lord Hutton, made twenty-seven recommendations for the reform of Public Service Pensions. The UK Government accepted Lord Hutton's recommendations as a basis for consultation with public sector workers and trade unions on long-term reform of pension arrangements. Ahead of this longer-term reform, the Commission also made clear that there is a rationale for increasing pension scheme member contributions to ensure a fairer distribution of costs between taxpayers and members.

3.2 The UK Government announced plans in the 2010 Spending Review to produce £2.8bn savings per year by 2014-15 through increasing public service employee pension contributions by an average of 3.2 percentage points by March 2015.

3.3 The UK Government set out its preferred parameters for scheme design to achieve these savings as:

- Those earning less than £15,000 on a Full Time Equivalent basis will pay nothing extra;
- Those earning up to £21,000 will pay no more than 0.6% extra in 2012-13 and no more than 1.5% extra in total by 2014-15;
- Higher earners will pay no more than 2.4% extra in 2012-13 and no more than 6% extra in total by 2014-15.

3.4 Public Service Schemes, including the HSC Pension Scheme were asked to set rates for scheme year 2012-2013, designed to secure the first stage of the increase whilst taking account of the principles outlined above which reflect the UK Governments wish to protect the lower paid, apply increases progressively and limit opt out from pension schemes.

3.5 Amending regulations 4, 8, 12, 13, 14, and 18 implement the new contributions rates that are tiered according to earnings in six bandings, to replace the existing four for members of the HSC Pension Scheme. The rates apply to the scheme year that runs from 1 April 2012 to 31 March 2013.

3.6 Members in the HSC Pension Scheme whose whole time equivalent earnings are less than £26,557 will see no change in their contribution rates for that year. Members earning £26,558 to £48,982 will see an increase of 1.5 per cent. Members earning £48,983 and above will see an increase of 2.4 per cent.

Compliance with the Finance Act 2011

3.7 Finance Act 2011 (FA 11) makes changes to the Finance Act 2004 (FA 04). FA 04 provides for the taxation of pensions, and certain of its provisions prescribe annual and lifetime allowance limits on tax-relieved pension benefits. Amending regulations 3, 7, 10, 11(a), 16, 17(a) and 20 make changes as a consequence of the changes made by FA 11.

Reduced annual allowance

3.8 From 6 April 2011, FA 11 changes to FA 04 restrict pension tax relief for active scheme members by reducing the annual allowance level (AAL) to £50,000. Active members whose pension benefits increase in value by more than the AAL during any year are required to calculate an "AAL charge" through their self-assessment tax return. To support this, FA 11 imposes a new responsibility on the scheme administrators to issue those members affected with a "pension savings statement" (PSS), setting out benefits to date and the amount by which the value of their benefits has exceeded the AAL. Schemes are required to issue PSS by October following any tax year, extended to October 2013 for the first year. FA 11 also imposes a new responsibility on scheme employers to provide the scheme administrators with the information they will need to calculate and prepare PSS by July any year, extended to July 2013 for the first year. In this respect, consequential changes to HSC Pension Scheme regulations apply with retrospective effect to 6 April 2011.

3.9 FA 11 changes also permit scheme members with large AAL charges (over £2,000) to apply for a new “scheme pays” arrangement. The facility allows members to require schemes to pay the AAL charges to HMRC, on their behalf, subject to the scheme recovering that cost by reduction of current or future benefits. In this respect, consequential changes to HSC Pension Scheme regulations apply with retrospective effect to 11 August 2011.

Reduced lifetime allowance

3.10 From 6 April 2012, FA 11 will also reduce the lifetime allowance (LTA), from £1.8million to £1.5 million. The change is accompanied by a new “transitional protection” arrangement, which permits individuals with pension savings above £1.5 million (or who believe investment/growth will cause benefit value to rise above this level) to apply for a personal LTA of £1.8 million. Individuals requiring transitional protection must curtail pension saving in all registered pension schemes and apply to HMRC before 6 April 2012. Members granted “transitional protection” must provide pension schemes with information and the relevant HMRC reference number, to secure the increased LTA when retirement benefits are calculated. In this respect, consequential changes to HSC Pension Scheme regulations apply with effect from 6 April 2012.

Introduction of the Isle of Man Government Unified Scheme

3.11 From 1 April 2012, the Isle of Man Government will introduce a new Unified Public Service Pension Scheme that replaces existing pension schemes for NHS staff and a number of other public sector workers on the Island. All members of the current Isle of Man (IoM) Health Service Pension Scheme will move to the new Unified Scheme on that date. The consequential changes made by amending regulations 5, 6, 11(b), 15, 17(b), and (19) are explained below.

3.12 Currently, dedicated transfer arrangements apply to most members transferring between the four separate Health Service Pension Schemes in England and Wales, Northern Ireland, the IoM and Scotland. Transferring members are treated as if all their NHS/HSC service had been accrued in the receiving NHS/HSC Scheme. However, the IoM Unified Scheme will have different provisions to the other NHS/HSC Pension Schemes meaning that it will not be possible for the IoM to remain part of these dedicated arrangements from 2 April 2012. The statutory rule therefore removes the IoM Unified Scheme from the dedicated transfer arrangements from this date.

3.13 Members of the IoM Unified Scheme will be able to transfer their pension into the HSC Pension Scheme on a cash equivalent basis in the same way as members transferring from other HMRC approved overseas pension schemes.

3.14 As a further consequence of the ending of the above dedicated transfer arrangements, HSC Pensions will no longer be reduced or suspended when pensioners take up NHS employment in the Isle of Man on or after 1 April 2012.

4. Consultation

4.1. A target consultation was held between 24 October 2011 and 21 January 2012 on the policy to increase scheme member contributions for the 2012-13 year. 232 responses were received. The full response to the consultation exercise can be viewed on the HSC Pension Service website – www.dhsspsni.gov.uk/hsc-pensions.

4.2. In the light of an alternative proposal submitted by NHS Employers to the consultation in England and Wales, the DHSSPS subsequently modified the initial consultation proposals for the HSC Pension Scheme to protect a greater number of lower and middle earners from an increase during that year. The intention is to limit the number of people who may choose to opt out from scheme membership as a consequence of higher contributions. The revised approach spreads the burden more fairly by taking account of the beneficial effect of tax relief for higher rate income tax payers on their pension contributions.

4.3. All the changes implemented by this statutory rule (including contribution changes) have also been the subject of a statutory consultation between 31 January 2011 and 28 February 2012. Amongst those consulted were: HSC Trades Union representatives, HSC Employers; HSC Pension Service (the Scheme Administrators); Government Actuary's Department; and HM Treasury.

4.4. Three responses to the statutory consultation on the regulations were received.

5. Equality Impact

5.1. The Department concluded that the new arrangements were not likely to have a significant impact on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998 and therefore a full EQIA was not recommended.

6. Regulatory Impact

6.1. A regulatory impact assessment has not been produced for this rule as it has no impact on the costs of business, charities or the voluntary sector.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. Legal advice confirms that the provisions of this rule comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not appropriate

10. Parity or Replicatory Measure

10.1. It is general policy to mirror arrangements in GB in relation to pensions legislation. This rule mirrors provisions contained in legislation for NHS employees in England and Wales and Scotland which also come into effect from 1 April 2012.

11. Additional Information

11.1. Not applicable.