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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 120**

**The Health and Social Care Pension Scheme  
Regulations (Northern Ireland) 2015**

**PART 1**

Preliminary

**Citation and commencement**

1. These Regulations may be cited as the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015 and shall come into operation on the 1st April 2015.

**Establishment of the Health and Social Care Pension Scheme 2015**

2.—(1) A scheme is established for the payment of pensions and other benefits to or in respect of—

- (a) health service workers mentioned in regulation 18(1); and
- (b) such other persons mentioned in regulation 18(2).

(2) This scheme is to be known as the Health and Social Care Pension Scheme 2015.

**[<sup>F1</sup>Members who do not fall within any of the cases in paragraph 2**

2A.—(1) This paragraph applies for the purpose of determining the relevant contribution rate for the current scheme year for a member—

- (a) who is in pensionable employment with the same employing authority on both—
  - (i) the last day of the previous scheme year; and
  - (ii) the first day of the current scheme year; and
- (b) does not fall within any of the cases within column 1 of paragraph 2.

(2) Where this paragraph applies—

- (a) the scheme manager must determine the amount of the member's pensionable earnings; and
- (b) the member must pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (3A) of regulation 30 in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the amount so determined.

(3) For the purposes of sub-paragraph (2)(a), the scheme manager must take the advice of the scheme actuary and have regard to—

- (a) pensionable earnings attributable to pensionable service comparable to that of the member;
- (b) prevailing pay scales;

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

(c) prevailing rates of pensionable allowances.

(4) A member is regarded as being in pensionable employment throughout the previous scheme year regardless of any period in that year during which the member continued to be employed by the same employer, but did not make contributions to this scheme.

(5) For the purposes of calculating the member's pensionable earnings, additional pensionable earnings that the member is treated as having received during an absence from work (see regulation 28) is included.

(6) The amount of pensionable earnings determined in accordance with this paragraph must be rounded down to the nearest whole pound.]

#### Textual Amendments

**F1** Sch. 9 para. 2A inserted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), 7(4)

## PART 2

### Governance

#### CHAPTER 1

#### Management

#### Scheme Manager

**3.—(1)** The Department is the scheme manager and is responsible for managing or administering—

- (a) this scheme, and
- (b) any statutory pension scheme that is connected with it.

(2) The Department may make arrangements for any or all of the functions and responsibilities as scheme manager under these Regulations to be performed on the Department's behalf by the Regional Business Services Organisation (RBSO) <sup>M1</sup>, but any such arrangements do not affect the Department's liability for those functions and responsibilities.

#### Marginal Citations

**M1** Established by section 14 of and Schedule 3 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 ([2009 c.1 \(N.I.\)](#))

#### Pension Board

**4.** There is to be a Pension Board constituted in accordance with Schedule 1 which has responsibility for assisting the scheme manager in relation to—

- (a) securing compliance with these Regulations and other legislation relating to the governance and administration of—
  - (i) this scheme, and
  - (ii) any statutory pension scheme that is connected with it;

- (b) securing compliance with any requirements imposed by the Pensions Regulator in relation to—
  - (i) this scheme, and
  - (ii) any statutory pension scheme that is connected with it.

### **Scheme Advisory Board**

5. There is to be a Scheme Advisory Board constituted in accordance with Schedule 2 which has responsibility for providing advice where requested to the Department on the desirability of changes to—

- (a) this scheme; and
- (b) any statutory pension scheme that is connected with it.

## CHAPTER 2

### Actuary and valuation

#### **Appointment of scheme actuary**

6.—(1) The Department must appoint a person (the scheme actuary) for the purposes of carrying out—

- (a) actuarial valuations of this scheme and connected schemes required by the Department of Finance and Personnel directions given under section 11 of the 2014 Act; and
- (b) such other actuarial functions as may be required in relation to this scheme or a connected scheme.

(2) Before making an appointment under paragraph (1), the Department must be satisfied that the person to be appointed is appropriately qualified.

#### **Actuarial valuation**

7.—(1) The scheme actuary must carry out an actuarial valuation of this scheme and connected schemes as at the effective date.

(2) The scheme actuary must provide a valuation report to the scheme manager not later than such date as may be agreed by the Department.

(3) The effective date is—

- (a) in respect of the first valuation under paragraph (1), 31st March 2016;
- (b) in respect of subsequent valuations, such dates as enable the scheme to comply with Department of Finance and Personnel directions at to valuations.

#### **Employer cost cap**

8.—(1) The employer cost cap for this scheme is 12.9% of the pensionable earnings of members of the scheme.

(2) “Employer cost cap” has the same meaning as in section 12 of the 2014 Act.

#### **Cost of scheme exceeds margins**

9. The scheme actuary must give notice to the Department if the actuarial valuation shows that the cost of this scheme would be outside the margins specified in regulations made by the Department of Finance and Personnel pursuant to section 12(5) of the 2014 Act.

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### **Procedure for agreeing steps to achieve target cost**

- 10.**—(1) This regulation applies if notice is given under regulation 9.
- (2) The Department must make a request to the Scheme Advisory Board—
- (a) to consider the matter; and
  - (b) give advice to the Department as to means by which the target cost is to be achieved.
- (3) The Department must consider the advice and seek to reach agreement with the Scheme Advisory Board as to the means by which the target cost is to be achieved.
- (4) In acting under paragraphs (2) and (3), the Department must specify the date before which—
- (a) the advice must be provided; and
  - (b) agreement must be reached.

### **No agreement reached**

- 11.**—(1) This regulation applies if no agreement is reached as mentioned in regulation 10.
- (2) If the costs of the scheme are outside the margins as mentioned in regulation 9, the Department must adjust the fraction specified in paragraph 13(3) of Schedule 7 so as to achieve the target cost.

### **Approval mechanism**

- 12.** An agreement under regulation 10 or an adjustment or reduction under regulation 11 must not be implemented unless—
- (a) the scheme actuary certifies that the agreement or adjustment (as the case may be) will have the effect of enabling the scheme to meet the target cost; and
  - (b) the Department of Finance and Personnel approves the agreement or adjustment.

### **Target cost**

- 13.** In regulations 10 to 12, “target cost” must be construed in accordance with section 12(5)(b) of the 2014 Act.

## **CHAPTER 3**

### **General**

### **Administrative matters**

- 14.** Schedule 3 makes provision in relation to—
- (a) scheme accounts and information;
  - (b) claims for, and payments of, benefits;
  - (c) interest on late payments;
  - (d) assignment, offset and forfeiture;
  - (e) insolvency of persons entitled to benefits;
  - (f) determination of questions; and
  - (g) taxation.

## PART 3

### Scheme membership

#### CHAPTER 1

##### Joining and leaving

##### Joining and leaving the scheme

15.—(1) Each person who is eligible to join this scheme pursuant to regulation 18 will be included in the scheme—

- (a) automatically on commencing HSC employment;
- (b) subject to regulation 16, where the person has previously opted out of this scheme, on the date determined under paragraph 2 of Schedule 4, where that paragraph applies;
- (c) subject to regulation 16, where the person has previously opted out of this scheme and is a person to whom section 3 or 5 of the 2008 Act <sup>M2</sup> applies—
  - (i) on that person's automatic enrolment date, or
  - (ii) on that person's automatic re-enrolment date, except where the notice referred to in paragraph 1 of Schedule 4 was given within the 12 months immediately preceding that date.

(2) A person who is included in this scheme may opt out at any time in accordance with paragraph 1 of Schedule 4.

(3) In this Chapter—

- (a) “the 2008 Act” is the Pensions (No.2) Act (Northern Ireland) 2008;
- (b) “the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 <sup>M3</sup>.

(4) Paragraph (1) does not apply to a locum practitioner.

(5) A locum practitioner who wishes to join this scheme must make an application to the scheme manager in such form as the scheme manager requires.

(6) The application must not relate to a period of engagement which ended more than 10 weeks before the date of the application.

(7) If the scheme manager accepts an application under paragraph (5) the locum practitioner's membership of this scheme takes effect on the date specified by the scheme manager.

##### Marginal Citations

**M2** 2008 c.13 (N.I.); Section 3 was amended by the Pensions Act (Northern Ireland) 2012 (2012 c.3 (N.I.)); Section 5 was amended by that Act sections 5(2) to (4), 6(3) and (4) and 7(3) and regulation 2(1) of the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2014 (S.R. 2014 No.81)

**M3** S.R. 2010 No.122 as amended by S.R. 2012 Nos.232, 237, 238, 390 and S.R. 2013 Nos.221 and 243 and S.R. 2014 No.89

##### Re-joining the scheme

16.—(1) Subject to paragraph (2), a person who has opted out of this scheme in accordance with paragraph 1 of Schedule 4 may re-join this scheme pursuant to paragraph 2 of that Schedule.

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(2) A person may not re-join this scheme during any period of absence from work for any reason.

### Automatic enrolment legislation

17.—(1) Regulations 15 and 16 do not apply to a person to whom sections 3, 5 or 8 of the 2008 Act and regulations 9 or 15 of the 2010 Regulations <sup>M4</sup> applies (that is, a person who is subject to automatic enrolment or re-enrolment in this scheme as a qualifying scheme who does not wish to participate in it).

(2) Paragraph (1) does not affect the rights of such a person who subsequently joins or re-joins this scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.

#### Marginal Citations

M4 [Regulation 9](#) was amended by S.R. [2012 No.232](#) regulation 2(6)

## CHAPTER 2

### Membership

#### Membership

18.—(1) Subject to regulation 19, a person is eligible to join this scheme if the person is a health service worker and is—

- (a) employed by an HSC organisation listed in Part 1 of Schedule 5;
- (b) an individual who is a medical contractor, or who is employed by a medical contractor or dental provider, listed in Part 2 of that Schedule;
- (c) an individual who is a medical practitioner or dental practitioner listed in Part 3 of that Schedule; or
- (d) who is employed by a determination employer: see Part 4 of that Schedule.

(2) Subject to regulation 19 a person is eligible to join this scheme if the person is—

- (a) an individual of a category or description listed in Schedule 6; and
- (b) a person in respect of whom the Department has made a determination under section 25(5) of the 2014 Act.

(3) Where such a determination is made, these Regulations apply to the person subject to any modification made by the Department by direction under section 25(8) of the 2014 Act.

(4) In paragraph (1), the reference to a person being employed does not include a reference to a person engaged under a contract for services.

(5) Where, in relation to a single employment or engagement for provision of services, a person is eligible to join this scheme by virtue of more than one of the sub-paragraphs of paragraphs (1) or (2), the scheme manager must determine which one sub-paragraph is to be used as the basis for membership.

#### Restrictions on membership

19. A person is not eligible to be a member of this scheme if the person—

- (a) is under the age of 16 or over the age of 75;
- (b) is eligible to be an active member of—

- (i) a superannuation scheme established under Article 3 or 11 of the Superannuation (Northern Ireland) Order 1972 <sup>M5</sup>; or
- (ii) a public service pension scheme established under section 1(2)(a) or 1(2)(d) of the 2014 Act,

in respect of service in such a scheme and is such a member;

[<sup>F2</sup>(c) is on 31st March 2022—

- (i) a member of the 1995 Section who is no longer required to pay contributions pursuant to regulation 10(3) or (4) (Contributions by members: age and pensionable service limits) of the 1995 Regulations; or
- (ii) in relation to the 2008 Section, a non-contributing member within the meaning of regulation 6 (Interpretation: general - officers) or 137 (Interpretation of Part 3: general – practitioners and out-of-hours providers) of the 2008 Regulations;]
- (d) is a pensioner member of the 1995 Section or the 2008 Section except so far as otherwise provided pursuant to the Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015;
- (e) holds an honorary appointment and is not at the same time otherwise entitled to join this scheme;
- (f) is employed by a GDS provider but is not a dental practitioner;
- (g) is employed by—
  - (i) a GMS practice; or
  - (ii) an APMS contractor,

[<sup>F3</sup>(ga) is employed by a GP Federation but does not assist in the provision of health and personal social services provided by that GP Federation;]

but does not assist the employer in the provision of services for the purposes of the GMS contract or APMS contract (as the case may be);

- (h) is a person—
  - (i) who—
    - (aa) becomes entitled to a Tier 2 IHP (see regulation 89), and
    - (bb) opts to exchange the Tier 2 IHP for a lump sum pursuant to regulation 108;or
  - (ii) to whom regulation 95(5)(b) applies.

#### Textual Amendments

- F2** Reg. 19(c) substituted (1.4.2022) by [The Health and Social Care Pension Schemes \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/156\)](#), regs. 1(2), **4**
- F3** Reg. 19(ga) inserted (with effect in accordance with reg. 1(2) of the amending Rule) by [The Health and Personal Social Services \(Superannuation\), Health and Social Care \(Pension Schemes\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/384\)](#), regs. 1(2), **12**

#### Marginal Citations

- M5** [S.I. 1972/1073 \(N.I.\)](#) Article 3 deals with pension schemes for civil servants and Article 11 deals with pensions for teachers

## CHAPTER 3

## Pensionable service

**Pensionable service**

- 20.**—(1) Pensionable service is the aggregate of the following periods—
- (a) a period of service in which a member (M) contributes to this scheme under regulation 30 or 31;
  - (b) a period of absence from service which counts as pensionable service under regulation 21; and
  - (c) a period of service credited to M as pensionable service under Part 7 (Transfers).
- (2) M's pensionable service does not include—
- (a) a period of service in respect of which an employing authority or the Department has paid contributions to another occupational pension scheme in respect of M;
  - (b) where M is a pensioner member or a deferred member, a period taken into account—
    - (i) in determining M's entitlement to the pension in payment or, as the case may be, the deferred pension, or
    - (ii) in calculating the amount of the pension;
  - (c) a period of service in which the Department's liability to provide benefits is discharged—
    - (i) by the payment of a contributions equivalent premium under section 51(2) of the 1993 Act <sup>M6</sup>,
    - (ii) under regulation 41 (Repayment of contributions), or
    - (iii) by the payment of a transfer value payment on transfer out under Part 7 (Transfers).
- (3) Paragraph (4) applies if—
- (a) the employment in which M is an active member ceases; and
  - (b) a payment is made in respect of untaken leave.
- (4) If this paragraph applies—
- (a) M's pensionable service is treated as continuing for a period equal to the period of leave in respect of which payment is made, and
  - (b) the payment is treated as M's pensionable earnings for the period.
- (5) If M—
- (a) is a pensioner member; and
  - (b) is entitled to a pension under regulation 84 (Partial retirement),
- paragraph (2)(b) applies only to so much of M's pensionable service as is mentioned in regulation 84(3)(a) (the specified percentage of the pensionable service as respects which M is an active member on the election day).
- (6) For the purposes of calculating the length of a period of pensionable service—
- (a) a year is a period of 365 days;
  - (b) 29th February in any year is ignored;
  - (c) part of a day is treated as a whole day.



### Marginal Citations

**M6** Section 51(2) was substituted by Article 138(1) of the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I.22\)\)](#) and amended by the [Pensions Act \(Northern Ireland\) 2008 c.1. \(N.I.\) Schedule 6 and S.I. 2001/4049](#)

### Absence from work

**21.**—(1) Paragraph (2) applies if a member (M) is absent from work because of—

- (a) illness or injury,
- (b) maternity leave,
- (c) adoption leave,
- (d) paternity leave, <sup>F4</sup>...
- (e) parental leave [<sup>F5</sup>, or]

[<sup>F6</sup>(f) parental bereavement leave.]

(2) The period of absence counts as pensionable service if M contributes to this scheme under regulation 30 or 31 in respect of the period of absence.

(3) Paragraph (4) applies if M—

- (a) is on leave of absence,
- (b) is not within paragraph (1), and
- (c) contributes to this scheme by contributions made at the same intervals as those made by M before the absence.

(4) The maximum period of leave that can be counted as pensionable service is—

- (a) if M contributes for a continuous period of 6 months starting with the first day of M's leave of absence, 6 months;
- (b) if M contributes for a continuous period of less than 6 months starting with that day, the period in respect of which M pays the contributions.

(5) Paragraph (6) applies if M—

- (a) has paid contributions for the period mentioned in paragraph (4)(a),
- (b) remains on leave of absence that is not within paragraph (1), and
- (c) at the same intervals as contributions made by M before the absence, contributes both member contributions under regulation 30 or 31 and employing authority contributions under regulation 32.

(6) The maximum period of leave that can be counted as pensionable service is—

- (a) if M contributes for a continuous period of 18 months starting immediately after the end of the period mentioned in paragraph (4)(a), 18 months, and
- (b) if M contributes for a continuous period of less than 18 months starting immediately after the end of that period, the period in respect of which M pays the contributions.

### Textual Amendments

**F4** Word in [reg. 21\(1\)\(d\)](#) omitted (6.4.2022) by virtue of [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/168\)](#), [regs. 1, 22\(2\)\(a\)](#) and (3.10.2022) by virtue of [The Parental Bereavement Leave and Pay](#)

*Status: Point in time view as at 01/11/2022.*

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(Consequential Amendments to Subordinate Legislation) (No. 2) Regulations (Northern Ireland) 2022 (S.R. 2022/236), regs. 1(1), **22(2)(a)** (with regs. 32, 34)

**F5** Word in reg. 21(1)(e) substituted (6.4.2022) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations (Northern Ireland) 2022 (S.R. 2022/168), regs. 1, **22(2)(b)** and (3.10.2022) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) (No. 2) Regulations (Northern Ireland) 2022 (S.R. 2022/236), regs. 1(1), **22(2)(b)** (with regs. 32, 34)

**F6** Reg. 21(1)(f) inserted (6.4.2022) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations (Northern Ireland) 2022 (S.R. 2022/168), regs. 1, **22(2)(c)** and (3.10.2022) by The Parental Bereavement Leave and Pay (Consequential Amendments to Subordinate Legislation) (No. 2) Regulations (Northern Ireland) 2022 (S.R. 2022/236), regs. 1(1), **22(2)(c)** (with regs. 32, 34)

**Modifications etc. (not altering text)**

**C1** Reg. 21 applied (1.4.2015) by The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015/122), regs. 1, **8(a)**

**Qualifying service**

**22.**—(1) The qualifying service of a member (M) is the aggregate of the following periods—

- (a) M's pensionable service, except service mentioned in regulation 20(1)(c);
- (b) a transfer in period;
- (c) a transferred undertaking period;
- (d) a period treated as qualifying service by virtue of paragraph (6);
- (e) a period of relevant pensionable service in a connected scheme; and
- (f) a period of service in respect of which M is a pensioner member in this scheme.

(2) In determining a period of pensionable service for the purposes of paragraph (1)(a), paragraph (b) of regulation 20(2) must be ignored.

(3) A transfer in period is the period equal to M's period as an active member in another occupational pension scheme (including a connected scheme) in relation to which a transfer value in respect of M's rights under the scheme has been accepted under Part 7 (Transfers).

(4) A transferred undertaking period is the period of employment that qualified M for rights under another occupational pension scheme where—

- (a) M became an active member of this scheme on the transfer of M's employment to a new employer as the result of a transfer of undertaking to that employer; and
- (b) no transfer payment in respect of those rights has been accepted under Part 7.

(5) Paragraph (6) applies if M is employed on a casual basis or is a locum practitioner and, for a period not exceeding 3 months—

- (a) M ceases to pay contributions because of a break not exceeding that period in the employment in which M is an active member, but before the end of the period M re-enters the employment on the same basis as before the break, or
- (b) M is not engaged as such a practitioner and so is not treated as being in pensionable service, but before the end of the period M is re-engaged as such a practitioner.

(6) The period mentioned in paragraph (5) is treated as a period when M continues to be in qualifying service and—

- (a) M is not required to re-join the scheme on re-entering the employment or on being re-engaged; and

- (b) if M is engaged as a locum practitioner, the period does not count as pensionable service as a practitioner.
- (7) Relevant qualifying service in a connected scheme is service that counts for the purposes of—
  - (a) regulation 5 of the 1995 Regulations;
  - (b) regulation 10 and 141 of the 2008 Regulations.

**Modifications etc. (not altering text)**

- C2** Reg. 22(5)(6) applied (with modifications) (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **9(2)**

**Effect of break in pensionable service**

**23.—**(1) In the following table a break in a period of pensionable service of a member (M) in circumstances set out in Column 1 has the effect described in Column 2.

**Table**

<i>Column 1</i>	<i>Column 2</i>
Part 1M leaves active membership, is neither qualified for a retirement pension pursuant to regulation 71 nor is a pensioner member because of rights resulting from that membership, then returns to active service	
1. The break- (a) does not exceed one month; or (b) is due to a trade dispute (within the meaning of Article 2(2) of the Jobseekers (Northern Ireland) Order 1995) <sup>M7</sup> .	The period of pensionable service before the break is treated as continuous with the period after the break
2. No transfer payment is made to another scheme in respect of pensionable service before the break	
3. It is immaterial if a refund of contributions is paid to M in respect of the period before the break.	
1. The break does not exceed 5 years. 2. No transfer payment is made to another scheme in respect of M's pensionable service before the break. 3. If a refund of contributions in respect of the period before the break is paid to M, it is repaid before the end of the period of 6 months starting on the first day of pensionable service after the break.	The period of pensionable service before the break is treated as continuous with the period after the break.
1. The break exceeds 5 years. 2. M may claim a refund of contributions in respect of pensionable service before the break.	The period of pensionable service before the break is not treated as continuous with the period after the break and does not count towards qualifying service.

*Status: Point in time view as at 01/11/2022.*

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Part 2M leaves active membership, is qualified for a retirement pension pursuant to regulation 71 but is not a pensioner member because of rights resulting from that membership, then returns to active service

<ol style="list-style-type: none"> <li>1. The break does not exceed 5 years.</li> <li>2. No transfer payment is made to another scheme in respect of M's pensionable service before the break.</li> </ol>	<p>The period of pensionable service before the break is treated as continuous with the period after the break.</p>
<ol style="list-style-type: none"> <li>1. The break exceeds 5 years.</li> <li>2. No transfer payment has been made to another scheme in respect of M's pensionable service before the break.</li> </ol>	<p>The period of pensionable service before the break is not treated as continuous with the period after the break, but does count towards qualifying service.</p>

(2) In paragraph (1) a reference to the repayment of a refund of contributions includes the repayment of any interest on the contributions.

**Marginal Citations**

M7 1995/2705 (N.I. 15)

**CHAPTER 4**

Pension accounts

**Establishment of pension accounts**

**24.**—(1) The scheme manager must establish and maintain one or more of the following pension accounts for each member of this scheme in accordance with Schedule 7—

- (a) active member's account;
- (b) deferred member's account;
- (c) pensioner member's account;
- (d) additional pension account;
- (e) pension credit member's account.

(2) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

**Closure of pension accounts on transfer out or repayment of balance of contributions**

**25.**—(1) All pension accounts relating to a member (other than a pension credit member's account) must be closed if—

- (a) a transfer payment is made in respect of the member's accrued rights under this scheme; or
- (b) the member is repaid the balance of contributions under regulation 40.

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer payment or the refund does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme.

### Calculation of amount of accrued pension

26.—(1) For the purpose of a full retirement pension, the amount of accrued pension is calculated in accordance with paragraph 28 of Schedule 7.

(2) For the purpose of a partial retirement pension, the amount of accrued pension is calculated in accordance with paragraph 29 of Schedule 7.

(3) For the purpose of a deferred member's account, the amount of accrued earned pension is calculated in accordance with paragraph 30 of Schedule 7.

## PART 4

### Contributions

#### CHAPTER 1

#### Determination and payment

### Pensionable earnings

27.—(1) The pensionable earnings of a member (M) are defined by the appropriate entry in the Table where—

- (a) Column 1 applies an identifying letter to the group to which M belongs;
- (b) Column 2 describes M's employment in or engagement with a health service activity; and
- (c) Column 3 specifies the nature of the income derived by M from the employment or engagement.

**Table**

<i>Column 1</i> <b>Group</b>	<i>Column 2</i> <b>Employment/Engagement</b>	<i>Column 3</i> <b>Income</b>
A	M is employed by an HSC organisation	Salary, wages, fees and other regular payments made to M in respect of M's employment but not including-
B	M is employed by a medical contractor, a non-GP provider or a GDS provider	(a) bonuses, (b) payments made to cover expenses
C	M is employed by a determination employer	(c) payments for overtime, or (d) pay awards or increases which are expressed by the Department to be non-consolidated
D	M is- (a) a medical practitioner (b) a dental practitioner, or (c) a non-GP provider.	Practitioner income: see Schedule 8

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

(2) M's pensionable earnings may be attributable to M belonging concurrently to more than one group in the Table.

(3) If M is a non-GP provider—

- (a) paragraph (2) does not apply;
- (b) if M derives income from more than one entity as a non-GP provider, M's practitioner income in respect of only one of those may be taken into account for the purpose of establishing M's pensionable earnings.

(4) If, in addition to an employment mentioned in paragraph (1), M holds an honorary office or appointment, a distinction award payable to M as a consequence of holding the office or appointment is treated—

- (a) where M is in one employment, as pensionable earnings of that employment;
- (b) where M is in two or more employments, as pensionable earnings of such of the employments as the scheme manager thinks appropriate.

(5) In paragraph (1), a practitioner is a person who is—

- (a) a fully registered person (within the meaning of section 55 of the Medical Act 1983 <sup>M8</sup>) who is not a GP registrar and is—
  - (i) a medical practitioner,
  - (ii) an ophthalmic practitioner, or
  - (iii) a locum practitioner, or
- (b) a dental practitioner.

#### **Marginal Citations**

**M8** 1983 c.54. The definition of 'fully registered person' has been amended by S.I. 2000/3041, 2006/1914, 2007/3101 and 2008/1774

#### **Pensionable earnings: break in service**

**28.**—(1) Paragraph (3) applies to a member (M) if—

- (a) the absence condition is satisfied, and
- (b) the earnings used to calculate M's pensionable earnings under regulation 27 are reduced or cease.

(2) The absence condition is that M is absent from work because of—

- (a) illness or injury,
- (b) maternity leave,
- (c) adoption leave,
- (d) paternity leave, <sup>F7</sup>...
- (e) parental leave [<sup>F8</sup>, or]

[<sup>F9</sup>(f) parental bereavement leave.]

(3) Amounts equal to the pensionable earnings that M would have received but for the absence are treated as having been paid to M.

(4) Paragraph (3) does not apply to M as respects any period after the earnings used to calculate M's pensionable earnings under regulation 27 have ceased to be paid to M if—

- (a) M is neither a practitioner nor non-GP provider; and

- (b) M is within paragraph (2)(a).
- (5) For the purposes of regulations 27 to 31 amounts equal to reduced earnings to which paragraph (6) applies are treated as pensionable earnings.
- (6) The reduced earnings are the amount to which the earnings used to calculate M's pensionable earnings under regulation 27 are reduced—
- (a) for any period while M is within paragraph (2);
  - (b) for any period (period A) while M is within paragraph (2)(b) to (e) and during a period following that period (period B) whilst M continues to be within that paragraph and M's earnings are reduced to zero.
- (7) For the purposes of paragraph (6)(b)—
- (a) pay received by a woman on maternity leave in respect of days during which she returns to work for the purpose of keeping in touch with the workplace must be ignored;
  - (b) earnings reduced to zero in period B are treated as if they were reduced to the amount applicable to period A.
- (8) During any period of absence which counts as pensionable service under regulation 21(4) or (6) (up to 24 months leave of absence with full contributions), amounts equal to the rate of M's pensionable earnings immediately before the absence are treated as pensionable earnings.
- (9) This paragraph applies if M belongs to group D in regulation 27(1) and M's earnings have been reduced or ceased—
- (a) if M is one of a number of practitioners or non-GP providers who have elected under paragraph 4(4) of Schedule 8, each practitioner's or non-GP provider's pensionable earnings are calculated as if the partnership's aggregate pensionable earnings were equal to the amount of the partnership's aggregate pensionable earnings for the period of 12 months ending immediately before M's earnings were reduced or ceased;
  - (b) in any other case, M is treated as having continued to receive the same average rate of pensionable earnings as during that period.
- (10) If the earnings used to calculate M's pensionable earnings cease during a period of absence specified in paragraph (2)—
- (a) a practitioner or non-GP provider within paragraph (2)(a) is treated as having continued in pensionable employment for a period of 12 months starting on the date on which M's earnings ceased and M is not treated as having left pensionable employment until the end of that period;
  - (b) a practitioner or non-GP provider falling within paragraph (2)(b) to (e) who paid contributions on the basis of reduced earnings in accordance with paragraphs (5) and (6) will continue to pay contributions at that rate, but no refund of contributions or other benefit is payable until M actually leaves pensionable employment;
  - (c) a member other than a practitioner or non-GP provider is treated (subject to paragraph (7)) as having left pensionable employment, but no refund of contributions or other benefit is payable until M actually leaves pensionable employment.
- (11) For the purposes of paragraph (10)(a)—
- (a) during the 12 month period, the practitioner's or non-GP provider's pensionable earnings are to be calculated in accordance with paragraph (9)(a) or (b);
  - (b) at the end of the 12 month period, when M is regarded as having left pensionable employment, no refund of contributions or other benefit is payable until M leaves pensionable employment.

*Status: Point in time view as at 01/11/2022.*

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(12) For the purposes of paragraph (10)(b), the rate of contributions payable is the rate that would have been payable on the basis of reduced earnings in accordance with paragraphs (5) and (6)(a) if the practitioner's or non-GP provider's reduced earnings had excluded earnings for a day during which the practitioner or non-GP provider, whilst on maternity leave, returned to work for the purpose of keeping in touch with the workplace.

(13) If M fails to pay contributions which are required to be paid in respect of a period of absence to which this regulation applies—

- (a) M will be treated as having left pensionable employment; but
- (b) no refund of contributions or other benefit is payable until M actually leaves pensionable employment.

(14) Benefits payable on the death of a member whose earnings ceased during a period of absence to which paragraph (9) applies are calculated as if the member had died in pensionable employment the day before the earnings ceased.

#### **Textual Amendments**

- F7** Word in reg. 28(2)(d) omitted (6.4.2022) by virtue of [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/168\)](#), regs. 1, **22(3)(a)** and (3.10.2022) by virtue of [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) \(No. 2\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/236\)](#), regs. 1(1), **22(3)(a)** (with regs. 32, 34)
- F8** Word in reg. 28(2)(e) substituted (6.4.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/168\)](#), regs. 1, **22(3)(b)** and (3.10.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) \(No. 2\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/236\)](#), regs. 1(1), **22(3)(b)** (with regs. 32, 34)
- F9** Reg. 28(2)(f) inserted (6.4.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/168\)](#), regs. 1, **22(3)(c)** and (3.10.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) \(No. 2\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/236\)](#), regs. 1(1), **22(3)(c)** (with regs. 32, 34)

#### **Pensionable earnings: more than one employment**

**29.**—(1) This regulation applies if, at any time, a member (M) is in receipt of pensionable earnings in respect of two or more employments each of which is attributable to M belonging to any of groups A to C in the table in regulation 27.

(2) If it appears to the scheme manager that the total pensionable earnings for the employments exceeds the comparable amount, the excess is ignored for the purposes of this Part.

(3) The comparable amount is the amount that would be the pensionable earnings for a single comparable whole-time employment, not held concurrently with any other employment, under which services of the kinds performed in the two or more employments are performed.

(4) Each employing authority of M's must provide the scheme manager with such information relating to M's employment as the scheme manager requires for the purpose of enabling the scheme manager to determine what is a single comparable whole-time employment.

(5) In determining what is a single comparable whole-time employment, the scheme manager must have regard to guidance issued by the scheme actuary for the purpose.

- (6) It is immaterial whether one or more of the employments mentioned in paragraph (1)—
- (a) is with the same employing authority, or



- (b) is treated as a part-time employment.
- (7) An employment includes a contract to perform services.

### Members' contributions: employees

**30.**—(1) This regulation applies in relation to an active member (M) who belongs to group A, B or C in regulation 27(1).

(2) M must make contributions to this scheme (“members' contributions”)—

- (a) in respect of M's pensionable earnings;
- (b) at M's contribution rate for the scheme year in question.

(3) Where paragraph 2 of Schedule 9 (determination of pensionable earnings for the purposes of setting a contribution rate for members) applies, M's contribution rate for <sup>[F10]</sup>the scheme year 2022/23] is the percentage specified in column 2 of the following table in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall.

<sup>[F11]</sup>Table Scheme Year 2022/23

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,231	5.1%
£13,232 to £15,431	5.7%
£15,432 to £21,478	6.1%
£21,479 to £22,548	6.8%
£22,549 to £26,823	7.7%
£26,824 to £27,779	8.8%
£27,780 to £42,120	9.8%
£42,121 to £47,845	10.0%
£47,846 to £54,763	11.6%
£54,764 to £70,630	12.5%
£70,631 and above	13.5%]

<sup>[F12]</sup>(3A) Where paragraph 2A or 3 of Schedule 9 applies, M's contribution rate for the scheme year 2022/23 is the percentage specified in column 2 of the following table in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall.

Table Scheme Year 2022/23

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,231	5.1%
£13,232 to £15,431	5.7%

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£15,432 to £21,478	6.1%
£21,479 to £22,548	6.8%
£22,549 to £26,823	7.7%
£26,824 to £27,779	8.8%
£27,780 to £42,120	9.8%
£42,121 to £47,845	10.0%
£47,846 to £54,763	11.6%
£54,764 to £70,630	12.5%
£70,631 and above	13.5%]

(4) The Department must—

- (a) with the consent of the Department of Finance and Personnel; and
- (b) having considered the advice of the scheme actuary,

determine the pensionable earnings bands and contribution percentage rates in the [F13 tables] set out in this regulation in respect of each subsequent scheme year.

(5) M's employing authority must deduct member contributions from M's pensionable earnings and pay them to the scheme manager not later than the 19th day of the month following that in which the earnings were paid to M.

(6) If M's employing authority has failed to deduct contributions pursuant to paragraph (4), the scheme manager may recover the amount of unpaid contributions by deduction from benefit payable to, or in respect of, M if the scheme manager has notified M of an intention to do so.

#### **Textual Amendments**

- F10** Words in reg. 30(3) substituted (1.11.2022) by The Health and Social Care Pension Scheme (Member Contributions) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/244), regs. 1(2), **3(2)(a)**
- F11** Reg. 30(3) Table substituted (1.11.2022) by The Health and Social Care Pension Scheme (Member Contributions) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/244), regs. 1(2), **3(2)(b)**
- F12** Reg. 30(3A) inserted (1.11.2022) by The Health and Social Care Pension Scheme (Member Contributions) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/244), regs. 1(2), **3(3)**
- F13** Word in reg. 30(4) substituted (1.11.2022) by The Health and Social Care Pension Scheme (Member Contributions) (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/244), regs. 1(2), **3(4)**

#### **Members' contributions: practitioners and non-GP providers**

**31.—**(1) This regulation applies to an active member (M) who belongs to group D in regulation 27(1).

- (2) M must make contributions to this scheme (“members' contributions”)—
  - (a) in respect of M's pensionable earnings;
  - (b) at M's contribution rate for the scheme year in question.

(3) M's contribution rate for each [<sup>F14</sup>scheme year from 2015/16] is the percentage specified in column 2 of the [<sup>F15</sup>tables] in paragraph (9) (“the Table”) in respect of the corresponding pensionable earnings band specified in column 1 of the Table into which the M's pensionable earnings fall.

(4) The Department must—

- (a) With the consent of the Department of Finance and Personnel; and
- (b) Having considered the advice of the scheme actuary,

determine the pensionable earnings bands and contribution percentage rates in the [<sup>F16</sup>tables] set out in this regulation in respect of each subsequent scheme year.

(5) In determining members' contributions payable in accordance with this regulation, the RHSCB must take account of pensionable earnings from all practitioner service.

(6) An employing authority that is not the RHSCB, in respect of pensionable earnings it pays to M, must take advice from the RHSCB in determining the contributions payable in accordance with this regulation.

(7) If M is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, the employing authority must—

- (a) deduct contributions due under this regulation from any pensionable earnings it pays to M, and
- (b) if it is not also the RHSCB, pay the contributions to the RHSCB not later than the 7th day of the month following the month in which the earnings were paid.

(8) In any other case, M must pay members' contributions to the RHSCB not later than the 7th day of the month following the month in which the earnings were paid.

[<sup>F17</sup>(9) For the purposes of this regulation “the relevant table” means—

- (a) in respect of each scheme year from 2015/16 to 2021/22, Table 1;
- (b) in respect of scheme year 2022/23, Table 2.

**Table 1 Scheme Years from 2015/16 to 2021/22**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5.0%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

**Table 2 Scheme Year 2022/23**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,231	5.1%
£13,232 to £15,431	5.7%
£15,432 to £21,478	6.1%
£21,479 to £22,548	6.8%
£22,549 to £26,823	7.7%
£26,824 to £27,779	8.8%
£27,780 to £42,120	9.8%
£42,121 to £47,845	10.0%
£47,846 to £54,763	11.6%
£54,764 to £70,630	12.5%
£70,631 and above	13.5%]

(10) Regulations 37 and 38 and Schedule 10 make provision supplementary to this regulation and references in those regulations to [F18the relevant table] must be construed in accordance with paragraph (3).

#### **Textual Amendments**

- F14** Words in [reg. 31\(3\)](#) substituted (1.4.2019) by [The Health and Personal Social Services \(Superannuation\) and Health and Social Care Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/62\)](#), regs. 1(2), **15(2)**
- F15** Word in [reg. 31\(3\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **3(4)**
- F16** Words in [reg. 31\(4\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **3(4)**
- F17** [Reg. 31\(9\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **4(5)**
- F18** Words in [reg. 31\(10\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **4(6)**

#### **Contributions by employing authorities**

**32.**—(1) The employing authority of an active member of this scheme must contribute to the scheme in respect of the pensionable earnings of the member at the employing authority's standard rate: [F1922.5%] .

(2) Paragraph (3) applies if—

- (a) during the same period a person who belongs to any groups A to C in the table in regulation 27(1) holds more than one employment (whether under a contract of service or for services) with an employing authority; and

- (b) is an active member of this scheme in respect of each employment.
- (3) This regulation and regulations 33 and 34 apply in respect of each employment as if it were the only employment held by the person.
- (4) The Department may direct that for the purposes of this Part, “employing authority” includes one or more of the following—
- (a) a successor, transmittee or assignee of an employing authority's business or functions;
  - (b) the last employing authority of a person to whom these regulations apply.
- (5) The employing authority's standard rate contribution must be paid to the scheme manager not later than the 19th day of the month following that in which the member is paid the pensionable earnings to which the contribution relates.
- (6) A member's employing authority is determined in accordance with the following table where column 1 describes the nature of the member's engagement in the provision of health services and column 2 identifies the employing authority relating to that engagement.

**Table**

<i>Column 1 Nature of engagement</i>	<i>Column 2 Employing authority</i>
Employment by an HSC organisation	The HSC organisation
Employment by a GMS practice, an APMS contractor or OOH provider	The GMS practice, an APMS contractor or OOH provider in question
Employment by a determination employer	The determination employer
Medical practitioner employed by a medical contractor or non-GP provider	The RHSCB
Medical contractor or non-GP Provider (including an ophthalmic medical practitioner who is a party to GOS arrangements)	The RHSCB
Dental practitioner or vocational trainee providing GDS services	The RHSCB
GDS provider	The RHSCB

- (7) Despite paragraph (1), employing authority contributions for—
- (a) a medical practitioner employed by a medical contractor or non-GP provider must be paid by the medical contractor or non-GP provider (as the case may be);
  - (b) a medical contractor (including an ophthalmic medical practitioner who is a party to GOS arrangements) or a non-GP provider must be paid by the medical contractor or non-GP provider (as the case may be).
- (8) Contributions payable by an employing authority under regulation 47(3) or 56 for a medical practitioner employed by a medical contractor or non-GP provider must be paid by the medical contractor or non-GP provider (as the case may be) rather than the RHSCB.

**Textual Amendments**

- F19** Word in [reg. 32\(1\)](#) substituted (1.4.2019) by [The Health and Personal Social Services \(Superannuation\) and Health and Social Care Pension Scheme \(Amendment\) Regulations \(Northern Ireland\) 2019 \(S.R. 2019/62\)](#), regs. 1(2), **16**

**Employing authority contributions: interests of efficiency**

33.—(1) This regulation applies if—

- (a) a member's (M) employment is terminated by M's employing authority in the interests of the efficient discharge of the employing authority's functions; and
- (b) M will become entitled to payment of a pension under regulation 80 on the entitlement day for a premature retirement pension

(2) The employing authority must make a contribution to the scheme manager in respect of the amount the scheme manager determines is required to meet the cost of paying the premature retirement pension under regulation 80.

(3) Paragraph (4) applies if—

- (a) a pension becomes payable to M under regulation 80 in respect of the termination of M's employment with an employing authority (the “ first authority ”); and
- (b) M elects that at the same time a pension also becomes payable to M in respect of pensionable service with one or more other employing authorities.

(4) The first authority must also make any additional contribution for which the other employing authority or authorities would be liable in accordance with paragraph (2) if the other authority or authorities had terminated M's employment as mentioned in paragraph (1)(a).

(5) An employing authority is not responsible for meeting any costs in respect of the early payment of benefits to the extent that the benefits are attributable to contributions made under Chapter 5 of Part 4 (additional pension).

(6) An employing authority must pay contributions under this regulation by a single payment made within one month of the date on which the pension under regulation 80 becomes payable.

(7) The scheme manager, on the advice of the scheme actuary, must determine—

- (a) the costs mentioned in paragraph (2);
- (b) the amount of the payment mentioned in paragraph (4).

**Employing authority contributions: redundancy**

34.—(1) This regulation applies if—

- (a) a member's (M) employment is terminated by reason of redundancy; and
- (b) M will become entitled to payment of a pension under regulation 81 on the entitlement day for a premature retirement pension.

(2) M's employing authority must make a single lump sum contribution to the scheme manager of the relevant amount.

(3) The contribution must be paid within one month of the date on which the pension under regulation 81 became payable.

(4) The relevant amount is the amount the scheme manager determines is required to meet the cost of paying the premature pension under regulation 81.

(5) Paragraph (6) applies if—

- (a) a pension becomes payable to M under regulation 81 in respect of the termination of M's employment with an employing authority (the “ first authority ”); and
- (b) M elects that at the same time a pension also becomes payable to M in respect of pensionable service with one or more employing authorities.

(6) The first authority must also make any additional contribution for which the other employing authority or authorities would be liable in accordance with paragraph (2) if the other authority or authorities had terminated M's employment as mentioned in paragraph (1)(a).

(7) In making a determination for the purposes of paragraph (4), the scheme manager must have regard to the advice of the scheme actuary.

### **Interest and administration charges: late paid contributions**

**35.**—(1) There is a chargeable event if an employing authority fails to pay—

- (a) contributions it is required to pay under regulation 30, 31, 32, 33, 34, 47 or 56;
- (b) on or before the date specified in the regulation concerned.

(2) Where there is a chargeable event, the scheme manager may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions (if any) it has paid at such an event;
- (c) any other factors that the scheme manager considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay—

- (a) standard rate interest on the amount of unpaid contributions constituting that event; and
- (b) an administration charge in respect of each such event.

(4) Where the scheme manager becomes aware of a chargeable event, the scheme manager must give the employing authority a written notice specifying—

- (a) the date of the chargeable event;
- (b) the amount of unpaid contributions determined under paragraph (2);
- (c) the amount of interest at the standard rate payable in respect of that event;
- (d) the amount of administration charge payable in respect of it; and
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made before the end of the period of 1 month starting with the date of the notice and that failure to do so incurs further interest and administration charges.

(5) An amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the scheme manager—

- (a) considers the case to be exceptional; and
- (b) considers it appropriate for all, or part, of the amount to be paid over a period and by a number of instalments determined by the scheme manager.

(6) Where the scheme manager considers the case to be exceptional, nothing in the preceding paragraphs prevents the scheme manager from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) The standard rate of interest in respect of arrears in respect of the scheme year 2015-2016 and subsequent years is the rate of consumer prices index for the month of February immediately preceding the scheme year in which the chargeable event arose plus 3% compounded at annual intervals.

(8) The administration charge in respect of arrears in respect of the scheme year 2015-2016 and subsequent years is £75.

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*Status: Point in time view as at 01/11/2022.*

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(9) In any particular case the Department may direct that, for the purposes of this regulation, “employing authority” includes a successor, transmittee or assignee of all or part of an employing authority's business or functions.

(10) In paragraph (7), “consumer prices index” means the all item consumer prices index published by the UK Statistics Authority.

### **Member contributions: records and estimates**

**36.**—(1) An employing authority must, in respect of a person, keep a record of –

- (a) contributions paid under regulation 30, 47, 61 or 63;
- (b) contributions due under regulation 30, 47, 61 or 63, but unpaid;
- (c) contributions paid under regulation 32;
- (d) contributions due under regulation 32, but unpaid;
- (e) hours or sessions of service if the employment is not whole time employment;
- (f) pensionable earnings;
- (g) absences from work referred to in regulation 21;
- (h) starting and termination of pensionable employment;
- (i) reasons for termination of pensionable employment.

(2) The record must be in a manner approved by the scheme manager.

(3) Unless the scheme manager waives the requirement, an employing authority must provide a composite statement in respect of the matters referred to in paragraph (1) in respect of all scheme members to the scheme manager before the end of the period of 2 months starting with the end of each scheme year.

(4) Where—

- (a) an employing authority has provided information in accordance with paragraph (3); and
- (b) there is a change to the information,

the employing authority must, before the end of the period of one month after the change, provide the scheme manager with the revised information.

(5) An employing authority must provide to the scheme manager in respect of each scheme year details of the total contributions paid for all scheme members under regulations 30, 32 and 61 and 63 and the details must be provided—

- (a) before the end of the period of 2 months after a request for the information is made;
- (b) in a manner required by the scheme manager.

(6) Where—

- (a) an employing authority has provided the information requested in paragraph (5); and
- (b) there is a revision to the total contributions made,

the authority must, before the end of the period of one month after the revision, provide the scheme manager with the revised total.

(7) An employing authority must, in respect of each scheme year, provide to the scheme manager a statement of estimated total contributions under regulations 30, 32, 47, 61 and 63—

- (a) not later than one month before the start of the scheme year;
- (b) in a manner required by the scheme manager.



### Members contributions: supplementary: medical practitioners and non-GP providers

37.—(1) This regulation applies to a member (M) who belongs to group D in regulation 27(1) by virtue of being—

- (a) a medical practitioner, or
- (b) a non-GP provider.

(2) Paragraph (3) applies if, in respect of a scheme year, M—

- (a) has certified M's pensionable earnings in accordance with Part 1 of Schedule 10 and forwarded a record of the earnings to the RHSCB, or
- (b) was not required to certify M's earnings in accordance with Part 1 of Schedule 10 but the RHSCB has the figure that represents M's pensionable earnings for that year.

(3) M's contributions payable for the scheme year in question are those specified in column 2 of the [<sup>F20</sup>relevant table] in regulation 31 in respect of the amount of pensionable earnings referred to in column 1 of that [<sup>F21</sup>table] which corresponds to the aggregate of—

- (a) certified or final pensionable earnings from all group D sources uprated according to the formula:

$$\frac{PE}{NDPS} \times 365$$

where—

PE is the certified or final amount of M's pensionable earnings from all group D sources for the year;

[<sup>F22</sup>NDPS is the number of days of M's group D service in the scheme year]; and

- b any additional pensionable earnings M is treated as having received during an absence from work in accordance with regulation 28.

(4) If paragraph (3) does not apply to M in respect of a scheme year, M must pay contributions at the rate in column 2 of the [<sup>F23</sup>relevant table] in regulation 31 on the basis of whichever of the following the RHSCB considers the most appropriate in the circumstances—

- (a) an amount of M's earnings that has been agreed between M and the RHSCB,
- (b) an amount of M's earnings that corresponds to M's most recent certified or final pensionable earnings referred to in paragraph (2), or
- (c) an amount of M's earnings that corresponds to the RHSCB's estimate of M's pensionable earnings from all group D sources for that year.

(5) If paragraph (4) applies to M in respect of a scheme year and paragraph (2)(a) or (b) is subsequently satisfied in respect of that year, M must pay contributions at the rate determined in accordance with paragraph (3).

(6) The RHSCB may adjust M's contribution rates for a scheme year determined in accordance with paragraph (4)—

- (a) by agreement between M and the RHSCB, or
- (b) without such agreement, if the RHSCB is satisfied that M's pensionable earnings will exceed the amount used to so determine the contribution rate.

(7) If M concurrently belongs both to group D and to any of groups A to C in regulation 27(1)—

- (a) contributions payable in respect of M's service for the purposes of group D must be determined under this regulation; and

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

(b) contributions payable in respect of M's service for the purposes of any of groups A to C must be determined under regulation 30.

(8) In the application of this regulation to a non-GP provider who derives income from more than one group D source, a reference to all group D sources must be construed as a reference to such one of those sources as the non-GP provider specifies for the purposes of this regulation.

#### Textual Amendments

- F20** Words in reg. 37(3) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **5(2)(a)**
- F21** Word in reg. 37(3) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **5(2)(b)**
- F22** Words in reg. 37(3)(a) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **58**
- F23** Words in reg. 37(4) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **5(3)**

#### Modifications etc. (not altering text)

- C3** [Reg. 37\(4\)\(b\)](#) applied (with modifications) (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **12(2)**

#### Members' contributions: supplementary: dental practitioners

**38.**—(1) This regulation applies to a member (M) who belongs to group D in regulation 27(1) by virtue of being a dental practitioner.

(2) Paragraph (3) applies if, in respect of a scheme year, M—

- (a) has reconciled or certified M's pensionable earnings in accordance with Part 1 of Schedule 10 and forwarded a record of those earnings to the RHSCB, or
- (b) was not required to reconcile or certify M's earnings in accordance with Part 1 of Schedule 10, but the RHSCB has the figure that represents M's pensionable earnings for the scheme year.

(3) M's contributions payable for the scheme year in question are those specified in column 2 of the [<sup>F24</sup>relevant table in regulation 31] in respect of the amount of pensionable earnings referred to in column 1 of that [<sup>F25</sup>table] which corresponds to the aggregate of—

- (a) reconciled, certified or final pensionable earnings from all group D sources uprated according to the formula:

$$\frac{PE}{NDPS} \times 365$$

where—

PE is the reconciled, certified or final amount of dental practitioner's pensionable earnings from all group D sources for the year;

[<sup>F26</sup>NDPS is the number of days of dental practitioner service in the scheme year]; and

- b any additional pensionable earnings M is treated as having received during an absence from work in accordance with regulation 28.

(4) If paragraph (3) does not apply to M in respect of a scheme year, M must pay contributions at the rate in column 2 of the [<sup>F27</sup>relevant table in regulation 31] on the basis of whichever the RHSCB considers the most appropriate in the circumstances—

- (a) the amount of M's earnings that has been agreed by the RHSCB and M, or
- (b) the amount of M's earnings that correspond to M's most recent certified or final pensionable earnings referred to in paragraph (2), or
- (c) the amount of M's earnings that corresponds to the RHSCB's estimate of M's pensionable earnings from all group D sources for the year updated in accordance with the formula in paragraph (3)(a).

(5) If paragraph (4) applies to M in respect of a scheme year, and paragraph (2)(a) or (b) is subsequently satisfied in respect of that year, M must pay contributions at the rate determined in accordance with paragraph (3).

(6) The RHSCB may adjust M's contribution rates for a scheme year determined in accordance with paragraph (4)—

- (a) by agreement between M and the RHSCB, or
- (b) without such agreement, if the RHSCB is satisfied that M's pensionable earnings will exceed the amount used to so determine the contribution rate.

#### Textual Amendments

- F24** Words in [reg. 38\(3\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **6(2)(a)**
- F25** Word in [reg. 38\(3\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **6(2)(b)**
- F26** Words in [reg. 38\(3\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(8\)](#) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **59**
- F27** Words in [reg. 38\(4\)](#) substituted (1.11.2022) by [The Health and Social Care Pension Scheme \(Member Contributions\) \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/244\)](#), regs. 1(2), **6(3)**

#### Modifications etc. (not altering text)

- C4** [Reg. 38\(4\)\(b\)](#) applied (with modifications) (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **12(2)**

## CHAPTER 2

### Refund: short service

#### Eligibility for refund

- 39.**—(1) Contributions made by a member (M) may be repaid to M if—
- (a) the 1993 Act condition applies; or
  - (b) the short service condition applies.
- (2) The “1993 Act condition” is that—
- (a) Chapter 5 of Part 4 of the 1993 Act <sup>M9</sup> applies to M; and
  - (b) the repayment is made in accordance with that Chapter.
- (3) The short service condition applies if—

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

- (a) M does not qualify for benefits under regulation 71;
- (b) M is not a pensioner member;
- (c) M ceases to be an active member;
- (d) the 1993 Act condition does not apply to M; and
- (e) M makes a claim in writing to the scheme manager for the repayment.

#### Marginal Citations

**M9** Chapter 5 of Part 4 was amended by the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255 \(N.I. 1\)\)](#) Article 241 and deals with early leavers; cash transfer sums and contribution refunds

#### Amount of refund

- 40.**—(1) The amount of a repayment to a member (M) pursuant to regulation 39 is—
- (a) if the 1993 Act condition applies, the amount to which M is entitled to be paid pursuant to Chapter 5 of Part 4 of that Act, less the appropriate deductions;
  - (b) if the short service condition applies, an amount equal to the sum of the contributions paid by M, less the appropriate deductions.
- (2) The appropriate deductions are—
- (a) so much of the contributions equivalent premium paid in respect of M as is permitted pursuant to section 57 of the 1993 Act <sup>M10</sup>;
  - (b) an amount equal to the income tax payable under section 205 of the 2004 Act <sup>M11</sup> (short service lump sum charge) as a result of the repayment.
- (3) M is entitled to interest on the amount of the repayment unless M's pensionable service ceases because M's employment is terminated—
- (a) pursuant to M's contract of employment;
  - (b) at M's request; or
  - (c) by reason of misconduct or inefficiency.
- (4) The rate of interest is 2.5% per year calculated on a compound basis with yearly rests.
- (5) Interest is payable in respect of the period starting on 1st April following the day when M started to pay contributions and ending on the day M leaves pensionable service.
- (6) Paragraphs (4) and (5) do not apply if—
- (a) regulation 39(1)(a) applies; and
  - (b) M is entitled to a greater amount of interest under Chapter 5 of Part 4 of the 1993 Act.
- (7) So far as contributions paid by M were paid under another scheme and were included in a transfer payment to this scheme—
- (a) interest for the period before the transfer period was made is calculated in accordance with the other scheme (subject to any enactment applicable to the transfer); and
  - (b) paragraphs (4) and (5) do not apply as respects that period.

#### Marginal Citations

**M10** Section 57 was amended by [S.I. 1995/3213 \(N.I. 22\)](#) Article 147 and Schedule 3 and [2000 c.19](#) section 56 and Schedule 5

**M11** Section 205 has been amended by section 219(1) of, and paragraphs 119 and 121 of Schedule 46 to, the Finance Act 2013 (c.29) and by Article 3 of S.I. 2010/536

### Effect of refund

**41.** If a repayment of contributions is made pursuant to regulation 39, the rights of the member (M) under this scheme are extinguished unless—

- (a) M or M's spouse or civil partner is entitled to a guaranteed minimum pension under the scheme; and
  - (b) no contributions equivalent premium has been paid.
- (2) Paragraph (1) does not apply if—
- (a) M again becomes a member of this scheme; and
  - (b) before the end of the period of 6 months starting on the date M again becomes a member, M repays to the scheme manager the contributions together with any interest paid in respect of them.

## CHAPTER 3

### Buy-out: actuarial reduction

#### Eligibility to make buy-out election

**42.**—(1) A member (M) who has a prospective normal pension age over 65 may elect to pay contributions to buy out the actuarial reduction (“buy-out election”) in accordance with this Chapter.

- (2) A buy-out election ceases to have effect when the earliest of the following occurs—
- (a) M reaches normal pension age;
  - (b) a retirement pension other than a partial retirement pension becomes payable to M;
  - (c) M revokes the election or is taken to revoke the election.
- (3) A buy-out election may only be made before the end of the period of 3 months after—
- (a) M enters pensionable service under this scheme; or
  - (b) the beginning of a subsequent scheme year.
- (4) When making a buy-out election, M must—
- (a) be in pensionable service; and
  - (b) not have reached normal pension age.
- (5) An election under this regulation may be made by M on only one occasion.

#### Making and varying a buy-out election

**43.**—(1) A buy-out election made by a member (M) must state the number of years in respect of which the actuarial reduction is to be bought out.

- (2) The number of years—
- (a) must not exceed 3 or (if less) the number of years from the date of M's 65th birthday until M's prospective normal pension age; and
  - (b) must be a whole number of years unless—
    - (i) M's prospective normal pension age is expressed otherwise than as a whole number of years, or

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- (ii) the scheme manager (having considered the advice of the scheme actuary) considers in M's circumstances it is unreasonable to restrict the period to whole years.
- (3) A buy-out election must be made by written notice to the scheme manager.
- (4) The notice of election must—
  - (a) if M is a member of this scheme by virtue of more than one employment, specify the names of each of the employing authorities; and
  - (b) be in such form and provide such other information as the scheme manager requires.
- (5) The scheme manager may ask M to provide further information.
- (6) M may by written notice to the scheme manager vary a buy-out election to increase the period for which the actuarial reduction is bought out at any time before a retirement pension becomes payable to M.
- (7) Paragraph (6) is subject to paragraph (2) and regulations 42(3) and (4).
- (8) Regulation 45 applies to a notice under paragraph (6) as it applies to an election under regulation 42(1) and, for the purposes of this paragraph, the amount found under regulation 45(2) includes the value of any increase mentioned in paragraph (6).

#### **Accepting a buy-out election**

- 44.**—(1) The scheme manager may accept a buy-out election by giving written notice to the person who made the election (M).
- (2) The notice must state—
    - (a) the rate of the monthly payments determined under regulation 46; and
    - (b) the date on which M reaches prospective normal pension age.
  - (3) A buy-out election takes effect when M receives notice that the scheme manager has accepted the election.
  - (4) The buy-out period is the number of scheme years starting with (and including) the scheme year in which the buy-out election takes effect and ending with (and including) the scheme year in which the earliest of the following occurs—
    - (a) M revokes or is taken to have revoked the election;
    - (b) M ceases to be a member of the scheme
    - (c) M reaches the normal pension age.
  - (5) The buy-out period does not include a scheme year in which payment of buy-out contributions is suspended by virtue of regulation 48.

#### **Overall limit on extra pension**

- 45.**—(1) The scheme manager must not accept an election under regulation 42(1) from a member if—
- (a) the member has made an election under regulation 54; and
  - (b) paragraph (2) applies.
- (2) This paragraph applies if the value of the actuarial reduction bought out exceeds the greater of the first and second amounts in paragraph (3).
- (3) In this paragraph—
- (a) the first amount is  $B - A$ ;
  - (b) the second amount is  $L - A$ ,

where—

B is the maximum potential value (determined having regard to the advice of the scheme actuary and the limits in regulation 43(2)) at the date of the election under regulation 42 (in terms of annual pension) of the reduction for the period for which the buy-out has effect;

L is the overall limit for the purposes of regulation 60; and

A is the value (in terms of annual pension) of any additional pension purchased or being purchased by the member under this scheme.

(4) A reference to the value of an additional pension is, in the case of a member who has made more than one election under regulation 54, a reference to the aggregate value of all the additional pensions in respect of which the member has made an election.

### Determination of contributions payable

**46.**—(1) The scheme manager must, after consultation with the scheme actuary, determine the amount of monthly payments to be paid in respect of a buy-out election.

(2) The scheme manager—

(a) may determine the amount of the monthly payments by reference to the length of the period between the date of the buy-out election and the date when the member will reach prospective normal pension age; and

(b) may exercise the functions under this paragraph so as to re-determine the amount of the monthly payments during that period.

(3) Unless the scheme manager re-determines the rate, monthly payments following a gap in service not exceeding 5 years are the same as before the gap.

### Payment of buy-out contributions

**47.**—(1) A member (M) must—

(a) make the first monthly payment within 2 months after the end of the month in which a buy-out election is accepted; and

(b) continue to make the monthly payments until the end of the period mentioned in regulation 46(2)(a).

(2) If the scheme manager re-determines the amount of the monthly payment during the period mentioned in regulation 46(2)(a), M must pay the re-determined amount from—

(a) the start of the next scheme year; or

(b) such later date as the scheme manager specifies.

(3) If the member's employing authority agrees to pay any or part of the contributions, the amount payable by the employing authority must be paid at the time the member would otherwise have been required to pay them.

(4) For the purpose of determining the amount of contributions payable during any period in which M's pensionable earnings are reduced as mentioned in regulation 28, the reduction in pensionable earnings must be disregarded.

(5) In this regulation, “the first monthly payment” includes any monthly payment due in arrears for the period between the start of the scheme year in which the buy-out election is accepted and the date of that first payment.

**Suspension of buy-out: hardship**

**48.**—(1) The scheme manager may, at the request of the member (M), agree to the suspension of the payment of contributions due under regulation 47 if the scheme manager is satisfied that M's circumstances are such that M will suffer hardship if the payments are not suspended.

(2) A period of suspension is permitted only if—

- (a) there has been no previous suspension, or
- (b) if there has been an earlier suspension, contributions have been paid for not less than a full scheme year since the earlier suspension ended.

(3) If the scheme manager agrees to the suspension, paragraph (4) applies unless—

- (a) not later than one year after the request under paragraph (1) is made M applies to resume making contributions; and
- (b) M resumes making the contributions at the start of the following scheme year.

(4) If this paragraph applies—

- (a) M is taken to have revoked the buy-out election; and
- (b) M is not entitled to make any other buy-out election under the scheme.

(5) Paragraph (6) applies if—

- (a) the scheme manager agrees to the suspension of payment of contributions by M; and
- (b) M's employing authority has agreed to pay contributions as mentioned in regulation 47(3).

(6) Payment of contributions by M's employing authority is suspended for the same period as the payment of contributions by M is suspended.

**Revoking a buy-out election**

**49.**—(1) A member (M) may revoke a buy-out election at any time before the end of the period mentioned in regulation 46(2)(a).

(2) The scheme manager may revoke M's buy-out election if M does not pay contributions for a period of 12 months.

(3) If a buy-out election is or is taken to have been revoked, M's monthly payments cease to be payable on the date of revocation.

(4) If, at the revocation date, the buy-out period during which the contributions were paid was less than 12 months—

- (a) the contributions must be re-paid to M, and
- (b) the buy-out election ceases to have effect.

(5) If, at the revocation date, the buy-out period during which the contributions were paid is 12 months or more—

- (a) contributions paid during the scheme year in which the election is revoked must be repaid to M; and
- (b) the buy-out period ends at the end of the previous scheme year.

(6) The revocation date is the date the buy-out election is, or is taken to have been, revoked.



## CHAPTER 4

### Allocation

#### Election to allocate pension

**50.**—(1) A member (M) may elect to allocate a part of the annual amount of M's pension for the provision of a pension after M's death for not more than one individual who is—

- (a) M's spouse or civil partner; or
- (b) a dependant of M (within the meaning of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act) <sup>M12</sup>.

(2) An election under this regulation may be made only—

- (a) at the time M claims the pension under paragraph (4) of Schedule 3; and
- (b) if M is not already entitled to payment of such a person.

(3) Paragraph (2)(b) does not apply in the case of a pension under regulation 83.

(4) A pension provided as a result of the election must be calculated in accordance with tables prepared by the scheme actuary.

#### Marginal Citations

**M12** [Paragraph 15\(3\)](#) of Schedule 28 has been amended by regulations 175 and 180(c) of [S.I. 2005/3229](#)

#### Amount of allocation

**51.**—(1) An election under regulation 50 may not allocate more than one-third of the member's (M) relevant annual pension.

(2) An election may not allocate an amount that would result in—

- (a) the allocated annual pension exceeding M's unallocated relevant annual pension;
- (b) the allocated annual pension exceeding such amount as the scheme manager determines for the purposes of this paragraph—
  - (i) after consultation with the scheme actuary; and
  - (ii) having regard to any restrictions imposed under Part 4 of the 2004 Act <sup>M13</sup>; or
- (c) the value of the allocated annual pension being such that a lump sum could be paid under paragraph 6 of Schedule 3 by way of conversion of a pension of that amount if the person entitled to the pension is not entitled to any other benefits under the scheme.

(3) The annual pension allocated must be an exact number of pounds.

(4) A pension provided pursuant to the election must be calculated in accordance with tables prepared by the scheme actuary.

#### Marginal Citations

**M13** [Part 4](#) deals with tax provision for pension schemes

#### Procedure for election under regulation 50

**52.**—(1) An election under regulation 50 in respect of a member's (M) pension must be made by notice in writing given to the scheme manager.

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

- (2) The notice must be in such form and contain such information as the scheme manager requires.
- (3) Subject to paragraphs (5) and (6), the election takes effect when it is accepted by the scheme manager.
- (4) The election may not be withdrawn, amended or revoked after it has taken effect.
- (5) The election does not take effect if—
- (a) M or the person in whose favour the election is made (the beneficiary) dies on or before the day on which the scheme manager accepts it; or
  - (b) the scheme manager is not satisfied that, at the time the election is made, M is in good health.
- (6) The election is treated as not having taken effect if the beneficiary dies before M is notified in writing that the scheme manager has accepted the election.

### **Effect of allocation**

- 53.**—(1) If an election by a member (M) under regulation 50 has taken effect—
- (a) M's pension is reduced accordingly (even if the beneficiary predeceases M); and
  - (b) if the beneficiary survives M, on M's death the beneficiary becomes entitled to the payment of a pension for life of such amount as is determined in accordance with regulation 51.
- (2) An allocation is disregarded if it would result in a pension being paid to a beneficiary who is neither—
- (a) M's spouse or civil partner on the date when M becomes entitled to the pension or dies; nor
  - (b) at the time of M's death, a dependant of M (within the meaning of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act <sup>M14</sup>).
- (3) References in these Regulations to pensions under Part 5 do not include pensions under this regulation, except where context otherwise requires.
- (4) A pension under this regulation is payable to the beneficiary in addition to a pension payable in respect of M's death under Part 6.

#### **Marginal Citations**

**M14** Paragraph 15(3) of Schedule 28 has been amended by regulations 175 and 180(c) of [S.I. 2005/3229](#)

## CHAPTER 5

### Additional pension

#### **Election to pay contributions for additional pension**

- 54.**—(1) This paragraph applies in relation to a member of the scheme (M) who—
- (a) is in pensionable service under the scheme; and
  - (b) has not reached normal pension age.
- (2) M or, with M's consent, M's employing authority may elect to pay contributions for an additional pension in respect of M (“additional pension election”).
- (3) An additional pension election may be made in respect of—
- (a) an additional (self only) pension; or
  - (b) an additional (self only) pension and an additional (surviving adult) pension.

(4) M may make an election under this regulation more than once.

(5) In this Chapter the refund period is the period ending one year after the date on which an election under this regulation is accepted.

#### **Annual rate of additional (self only) pension**

**55.**—(1) The annual rate of additional (self only) pension specified in an additional pension election must be a whole number multiple of—

- (a) £250; or
- (b) such other amount as is determined by the scheme manager.

#### **Lump sum or periodic payments**

**56.**—(1) An employing authority's additional pension contributions must be made by lump sum.

(2) A member's additional pension contributions may be paid either by lump sum or by periodic payments.

#### **Making an additional pension election**

**57.**—(1) An additional pension election by a member (M) must be made by written notice to the scheme manager stating whether additional pension contributions are to be paid—

- (a) as a lump sum; or
- (b) by periodic payments.

(2) An additional pension election by M's employing authority must be made by written notice to the scheme manager.

(3) A notice under this regulation must be accompanied by a declaration by M that M is in good health.

(4) An additional pension election must not be made at any time when M is absent from work for any reason.

#### **Accepting an additional pension election**

**58.**—(1) The scheme manager may accept an additional pension election by giving written notice to—

- (a) the member (M); and
- (b) M's employing authority.

(2) The scheme manager may refuse to accept an election if there are reasonable grounds to believe—

- (a) that M is not in good health at the time the election is made; or
- (b) in the case of an election where the contributions are to be made by periodic payments, that M's health is likely to prevent the payment of contributions for the whole of the contributions payment period.

(3) For the purposes of these Regulations, an additional pension election is accepted when M receives notice from the scheme manager.

#### **Determination of contribution payable**

**59.**—(1) The scheme manager must determine the amount to be paid as a lump sum or as a periodic payment.

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*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

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(2) The amount of the lump sum or periodic payment must be—

- (a) not less than the minimum amount; or
- (b) an amount which is a multiple of the minimum amount.

(3) In paragraph (3), the minimum amount is the amount that would, in accordance with tables prepared by the scheme actuary for the scheme year in which the contributions are paid, be the amount of contribution required to secure the additional pension specified under regulation 55.

(4) The tables mentioned in paragraph (3)—

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year.

(5) An amendment under paragraph (4)(b) has effect—

- (a) at the start of the next scheme year; or
- (b) such later date as the scheme manager specifies..

### **Overall limit on extra pension**

**60.**—(1) The scheme manager must not accept an election under regulation 54 from a member (M) in so far as the effect of accepting the election would be to provide M with one or more additional pensions which exceeds or in aggregate exceeds the overall limit.

(2) The overall limit is—

- (a) £6,500 for a scheme year ending before 1st April 2016;
- (b) for a scheme year beginning on or after that date—
  - (i) the overall limit of extra pension determined by the Department of Finance and Personnel in respect of that scheme year as published before the start of that scheme year; or
  - (ii) if no such determination is made, the amount calculated under paragraph (3).

(3) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of extra pension for the previous scheme year would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971 if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the first day of the previous scheme year.

(4) In determining the value of an extra pension for the purposes of paragraph (1) the scheme manager must include the value by reference to an annual pension of any actuarial reduction buy-out election having effect in relation to M.

(5) A valuation for the purposes of paragraph (4) must have advice of the scheme actuary.

### **Lump sum contributions: payment of contributions and credit of additional pension**

**61.**—(1) This paragraph applies to a member (M)—

- (a) in respect of whom an additional pension election is accepted; and
- (b) whose notice of election states that contributions are to be paid by lump sum.

(2) M's additional pension account is to be credited with an amount equal to the annual rate of additional (self only) pension stated in the notice of election (“the amount of additional pension”) if the lump sum contribution is paid within one month after the additional pension election is accepted.

(3) If the lump sum contribution is not paid within that time an election under regulation 54 is taken not to have been made.

### **Repayment of lump sum contribution**

**62.**—(1) This regulation applies if a member (M) has paid a lump sum contribution for additional pension.

- (2) The lump sum contribution must be refunded if, before the end of the refund period—
- (a) M dies;
  - (b) an ill-health pension becomes payable to M; or
  - (c) M leaves all pensionable service and M is neither qualified nor re-qualified for retirement benefits in respect of that service.

### **Periodic contributions**

**63.**—(1) This regulation and regulations 64, 65 and 67 to 70 apply in relation to a member (M)—

- (a) in respect of whom an additional pension election is accepted; and
  - (b) whose notice of election states that contributions are to be paid by periodic payments during the contributions payment period.
- (2) M's employing authority must—
- (a) deduct the contributions from M's pensionable earnings; and
  - (b) pay them to the scheme manager no later than the 19th day of the month following that in which the earnings were paid to M.
- (3) The contributions payment period must—
- (a) be a whole number of years;
  - (b) begin with the pay period in respect of which the first contribution is paid;
  - (c) be not less than one year nor more than 20 years; and
  - (d) end before M reaches normal pension age.
- (4) If the scheme manager re-determines the amount of the periodic payment during the contributions payment period, the re-determined amount must be repaid from—
- (a) the beginning of the next scheme year, or
  - (b) such later date as the scheme manager determines.

### **Retirement pension (other than ill-health pension) becomes payable before the end of the contributions payment period**

**64.**—(1) This regulation applies if any of the following retirement pensions becomes payable to M before the end of the contributions payment period—

- (a) a partial retirement pension (if M has elected to receive additional pension with it);
  - (b) a premature retirement pension;
  - (c) an early retirement pension.
- (2) If this regulation applies—
- (a) periodic payments for additional pension cease to be payable on the entitlement day for that pension; and
  - (b) the amount of accrued additional pension as at the day M leaves the pensionable service concerned is an amount determined by the scheme manager, having regard to—
    - (i) the period over which the contributions were paid; and
    - (ii) the length of the contribution payment period.

**Revoking an additional pension election (periodic payments)**

**65.**—(1) A member (M) may revoke an additional pension election at any time before the end of the contributions payment period.

- (2) A revocation must be by notice in writing to—
  - (a) the scheme manager; and
  - (b) M's employing authority.
- (3) A revocation has effect from the start of M's next pay period (“date of revocation”).
- (4) On the date of revocation under paragraph (1)—
  - (a) periodic payments for additional pension under the election cease to be payable; and
  - (b) the amount of accrued additional pension as at that date is an amount determined by the scheme manager.
- (5) The scheme manager may revoke the election if there are reasonable grounds for believing—
  - (a) that M's health will prevent M from paying contributions for the whole of the contributions payment period;
  - (b) that M was aware of the state of M's health at the time of making the declaration under regulation 57(3); and
  - (c) that M failed to disclose the state of M's health in the declaration.
- (6) A revocation under paragraph (5) must be given to M by notice in writing.
- (7) If the scheme manager revokes an election under paragraph (5)—
  - (a) periodic payments for additional pension under the election cease to be payable; and
  - (b) payments made by M before the date of revocation must be returned to M or, if M is deceased, M's representatives.

**Revocation of election by scheme manager (lump sum)**

**66.**—(1) The scheme manager may revoke an additional pension election made by a member (M) where the contribution was paid by lump sum if the scheme manager has reasonable grounds for believing that—

- (a) at the time the declaration under regulation 57(3) was made M was aware that the state of M's health was such that not less than 12 months after the election it was reasonable to assume that M would become entitled to an ill health pension or M's survivors would become entitled to a pension under Part 6; and
  - (b) M failed to disclose the state of M's health at the time of making the declaration.
- (2) If the scheme manager revokes an election under paragraph (1), the scheme manager must repay the lump sum—
- (a) if the lump sum was paid by M, to M, or if M is deceased, to M's representatives;
  - (b) if the lump sum was paid by M's employing authority, to the employing authority.

**Effect of being absent or leaving and rejoining scheme during contributions payment period**

**67.**—(1) This paragraph applies if, during the contributions payment period, a member (M) who has made an election under regulation 54—

- (a) is absent from work because of illness or injury;
- (b) is on maternity leave;
- (c) is on adoption leave;

- (d) is on paternity leave;
  - [<sup>F28</sup>(da) is on parental bereavement leave;]
  - (e) is on parental leave; or
  - (f) is within regulation 21(4) or (6).
- (2) If paragraph (1) applies—
- (a) the contributions payable under regulation 63 continue to be payable unless M ceases paying basic contributions;
  - (b) M may continue to pay contributions under regulation 63 only if—
    - (i) M ceases to pay basic contributions; but
    - (ii) resumes paying basic contributions before the end of the period of 12 months beginning with the day on which M first ceased to pay basic contributions.
- (3) This paragraph applies if—
- (a) a member (M) has made an election under regulation 54;
  - (b) M ceases to be an active member during the contributions payment period; and
  - (c) before the end of the period of 12 months beginning with the day on which M ceased to be an active member, M becomes an active member again.
- (4) If paragraph (3) applies, M may continue to make contributions in accordance with the election unless a repayment of contributions has been made to M under regulation 39.
- (5) For the purposes of paragraph (4) it is immaterial whether M has paid any repaid contributions back to the scheme manager.
- (6) In this regulation “basic contributions” means contributions payable under regulation 30 or 31.

#### Textual Amendments

**F28** Reg. 67(1)(da) inserted (6.4.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/168\)](#), regs. 1, **22(4)** and (3.10.2022) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) \(No. 2\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/236\)](#), regs. 1(1), **22(4)** (with regs. 32, 34)

#### Death in service before end of contributions payment period

- 68.**—(1) This regulation applies on the death of a member (D)—
- (a) whose additional pension election is for an additional (self only) pension and an additional (surviving adult) pension; and
  - (b) who dies while an active member before the end of the contributions payment period for that election.
- (2) If D dies before the end of the refund period—
- (a) the amount of contributions paid by D must be refunded to D's representatives;
  - (b) the amount of lump sum paid by D's employing authority must be repaid to the employing authority; and
  - (c) the additional pension account must be closed.
- (3) If D dies after the end of the refund period—

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- (a) the periodic payments cease to be payable as at the date of D's death; and
  - (b) paragraph (4) applies.
- (4) For the purpose of calculating a survivor's pension—
- (a) if the scheme manager believes that the declaration that accompanied the additional pension election was made in good faith—
    - (i) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election; and
    - (ii) the amount of accrued additional pension calculated is under paragraph 28 of Schedule 7 as at the date of D's death.
  - (b) if the scheme manager has reasonable grounds to believe that declaration was not made in good faith, paragraph (2)(a) to (c) applies.

### **Ill-health pension becomes payable before end of contributions payment period**

**69.**—(1) This regulation applies if an ill-health pension becomes payable to a member (M) before the end of the contributions payment period for an additional pension election.

(2) If an ill health pension becomes payable to M in consequence of a claim made before the end of the refund period—

- (a) any periodic payments that have been made under the election must be repaid to M;
- (b) the amount of lump sum paid by M's employing authority must be repaid to the authority; and
- (c) the amount of accrued additional pension attributable to the election as at the last day of pensionable service must be disregarded.

(3) If an ill-health pension becomes payable to M in consequence of a claim made after the end of the refund period—

- (a) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election.
- (b) for the purpose of calculating the annual rate of ill-health pension, the amount of accrued additional pension is—
  - (i) if the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension calculated under paragraph 28 of Schedule 7 as at the last day of pensionable service; or
  - (ii) if the declaration was not made in good faith, paragraph (2)(a) to (c) applies.

### **Effect of part payment of contributions**

**70.**—(1) This regulation applies if—

- (a) the full amount of contributions payable by a member (M) under an additional pension election is not paid; and
- (b) neither regulation 68(2) nor 69(2) applies.

(2) The amount of the accrued additional pension under paragraph 28(3) of Schedule 7 is the appropriate portion of the amount of accrued additional pension if the full amount of contributions had been paid.

(3) In the case of an election under regulation 54(3)(b), the amount of the accrued additional pension under Part 6 in respect of M is the appropriate proportion of the amount had the full amount of contributions been paid.



(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary determines and specifies in guidance given to the scheme manager.

- (5) In making a determination under paragraph (4), the scheme actuary must have regard to—
- (a) the proportion that the total contributions paid bears to the full amount of contributions due to be paid under the election for the full contributions payment period; and
  - (b) the requirements of Chapter 1 of Part 4 of the 1993 Act relating to the preservation of benefits under occupational pension schemes.

## **PART 5**

### Member's benefits

#### CHAPTER 1

##### Qualification

#### **Qualifying for retirement benefits**

- 71.** A member is qualified for retirement benefits under this scheme if—
- (a) the member has at least 2 years' qualifying service; or
  - (b) a transfer payment otherwise than from another occupational pension scheme has been accepted in relation to the member.

#### CHAPTER 2

##### Age retirement

#### **Entitlement to age retirement pension**

**72.—**(1) A member is entitled to payment of an age retirement pension from the entitlement day if that member—

- (a) has reached normal pension age;
- (b) is qualified for retirement benefits or the member ceases pensionable service after reaching normal pension age;
- (c) has left all HSC employment or reached age 75; and
- (d) has applied under paragraph 4 of Schedule 3 for the payment of an age retirement pension.

(2) An age retirement pension is payable for life.

(3) This regulation does not apply to a pension derived from pension credit rights (see section 97B of the 1993 Act <sup>M15</sup>).

#### **Marginal Citations**

**M15** Section 97B was inserted by Article 34 of the [Welfare Reform and Pensions \(Northern Ireland\) Order 1999 \(S.I. 1999/3147 \(N.I.11\)\)](#)

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### **Annual rate of age retirement pension**

73. The annual rate of age retirement pension payable to an active member or a deferred member who becomes entitled to payment of an age retirement pension is calculated in accordance with paragraph 1 of Schedule 11.

### **Late payment of pension with actuarial increase**

74.—(1) Paragraph (2) applies where a member becomes entitled to payment of an age retirement pension on ceasing pensionable employment after reaching normal pension age

(2) An increase amount (“the late payment actuarial increase”) must be calculated in accordance with paragraph 2 of Schedule 11.

### **Pension credit member**

75.—(1) A pension credit member is entitled to a pension derived from the member's pension credit rights (see section 97B of the 1993 Act) if—

- (a) the relevant event occurs; and
- (b) the member claims payment of the pension.

(2) The relevant event is whichever is the later of the following—

- (a) the pension credit member reaches whichever is the later of the age of 65 or state pension age; and
- (b) the date on which the pension sharing order or provision under which the member is entitled to the pension credit takes effect.

(3) The pension becomes payable on the occurrence of the relevant event.

(4) The amount of the pension is equal to the member's pension credit calculated in accordance with regulations under paragraph 5(b) of Schedule 5 to the 1999 Order.

(5) A pension credit member who does not fall within paragraph (2)(a) is entitled to immediate payment of a reduced pension if the member—

- (a) has reached normal minimum pension age; and
- (b) claims payment of the pension.

(6) The amount of the pension under paragraph (5) is—

- (a) the amount calculated pursuant to paragraph (4), less
- (b) such amount as the scheme manager determines to be appropriate in consequence of payment of the pension before the pension credit member is within paragraph (2)(a).

(7) For the purposes of making a determination under paragraph (6)(b) the scheme manager must consult the scheme actuary.

(8) A claim under paragraph (1) or (5)—

- (a) must be made in writing in such form as the scheme manager requires;
- (b) takes effect from the date specified in the claim as the date on which the pension is to become payable.

(9) A pension credit member in relation to whom the relevant event has not occurred is entitled to immediate payment of a pension if, in the opinion of the scheme manager, the pension credit member—

- (a) meets the ill health condition in paragraph 1 of Schedule 28 to the 2004 Act;
- (b) had previously been engaged in regular employment but is now permanently incapable of engaging in regular employment due to mental or physical infirmity; and

- (c) claims payment of the pension.
- (10) The amount of the pension under paragraph (9) is calculated as mentioned in paragraph (4).
- (11) For the purposes of paragraph (9), the scheme manager may require whatever medical evidence the scheme manager thinks necessary.
- (12) A pension sharing order or provision is an order or provision mentioned in Article 25(1) of the 1999 Order <sup>M16</sup>.

#### Marginal Citations

**M16** [Article 25\(1\)](#) was amended by section 261(3) of and paragraph 110 of Schedule 29 to the [Civil Partnership Act 2004 \(c.33\)](#)

### Conversion of part of pension into lump sum

**76.**—(1) Subject to paragraph (2) and Part 2 of Schedule 11, the following members may apply to the scheme manager to receive a lump sum in place of a part pension—

- (a) a member who is entitled to payment of a retirement pension;
- (b) a pension credit member who is entitled to payment of a pension credit retirement pension.

(2) Paragraph (1)(b) only applies if—

- (a) the member's pension credit is derived from rights attributable to the pensionable service of a pension debit member; and
- (b) a retirement pension does not become payable to the pension debit member before the day on which a pension-sharing order takes effect in respect of that pensionable service.

(3) Subject to paragraph (4), where an application is made pursuant to paragraph (1), the amount of pension converted into lump sum is £1 for every £12 paid as a lump sum to the member.

(4) Paragraph (5) applies if a retirement pension converted under this regulation—

- (a) is adjusted by virtue of regulation 92, or
- (b) is abated to zero by virtue of regulation 85(3) and regulation 86 applies.

(5) The amount of pension converted into lump sum for any retirement pension that subsequently becomes payable to the member is an amount determined by the scheme manager after consulting the scheme actuary.

(6) If the pension is an ill-health pension under regulation 89, the option under this regulation may only be exercised by giving notice to the scheme manager—

- (a) at the time of claiming the pension; or
- (b) before such later time as the scheme manager specifies in writing.

(7) If the pension is a Tier 2 IHP under regulation 92 in substitution for a Tier 1 IHP under regulation 89, the option under this regulation may only be exercised—

- (a) in relation to the difference between the Tier 1 IHP that ceases to be payable pursuant to sub-paragraph (a) of regulation 92(5) and the Tier 2 IHP to which the member becomes entitled under sub-paragraph (b) of that regulation; and
- (b) by giving notice to the scheme manager—
  - (i) at the time of the award of the Tier 2 IHP, or
  - (ii) before such later time as the scheme manager specifies in writing.

(8) Notice under paragraph (6) or (7) must be—

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- (a) given in writing;
- (b) in such form as the scheme manager requires.

(9) In paragraph (7) the references to a Tier 1 IHP and a Tier 2 IHP must be construed in accordance with regulation 89.

(10) This regulation does not apply to a pension credit member whose rights under this scheme are attributable to a disqualifying pension credit for the purposes of paragraph (2) of Schedule 29 to the 2004 Act<sup>M17</sup>.

#### **Marginal Citations**

**M17** Paragraph 2 of Schedule 29 has been amended by section 161(1) of, and paragraphs 1 and 23 of Schedule 23 to, the [Finance Act 2006 \(c.25\)](#), [section 70](#) of, and paragraphs 1 and 11(1) and (4) of Schedule 20 to, the [Finance Act 2007 \(c.11\)](#), [section 65](#) of, and paragraphs 23 and 25 of Schedule 16 to, the [Finance Act 2011 \(c.11\)](#) and section 48(5) of, and paragraphs 5 and 8(1) and (2) of Schedule 22 to, the [Finance Act 2013 \(c.29\)](#).

#### **Entitlement day**

77.—(1) The entitlement day for the purposes of an age retirement pension is—

- (a) if the member (M) is in HSC employment on the day on which M reaches normal pension age—
  - (i) the day after M ceases to be in HSC employment, or
  - (ii) the day on which M reaches the age of 75;
- (b) if M is not in HSC employment on the day on which M reaches normal pension age, that day.

(2) If regulation 97 applies to M, for the purposes of M's entitlement to a pension in respect of old employment (within the meaning of regulation 100(3)) a reference in this regulation to M ceasing to be in HSC employment must be treated as a reference to M ceasing to be in the old employment.

### CHAPTER 3

#### Early and premature retirement

#### **Early retirement**

78.—(1) A member (M) is entitled to payment of a reduced pension (an early retirement pension) from the entitlement day if M—

- (a) has reached normal minimum pension age but has not reached normal pension age;
- (b) is qualified for retirement benefits;
- (c) has ceased all HSC employments; and
- (d) has applied under paragraph 4 of Schedule 3 for payment of an early retirement pension.

(2) M is not entitled to payment of an early retirement pension if the scheme manager, after consultation with the scheme actuary, decides that the amount of the pension would be less than the amount of the guaranteed minimum pension (if any) to which M is entitled.

(3) An early retirement pension is payable for life.

(4) Part 3 of Schedule 11 has effect in respect of the calculation of the amount of an early retirement pension.

### Entitlement day

79. The entitlement day for the purposes of an early retirement pension is—

- (a) in the case of a deferred member, the date specified in the claim as the date on which the pension is to become payable;
- (b) in the case of an active member, the day immediately following the day on which M ceased to be employed in HSC employment.

(2) If regulation 97 applies to M, for the purposes of M's entitlement to a pension in respect of old employment (within the meaning of regulation 100(3)) a reference in this regulation to M ceasing to be in HSC employment must be treated as a reference to M ceasing to be in the old employment.

### Premature retirement in the interests of efficiency

80.—(1) A relevant member (M) is entitled to payment of a premature retirement pension from the entitlement day if—

- (a) M has reached normal minimum pension age but has not reached normal pension age;
- (b) M is qualified for retirement pension benefits;
- (c) M's pensionable service has been terminated by M's employing authority in the interests of the efficient discharge of the functions of M's employing authority;
- (d) M's employing authority gives written notice to the scheme manager pursuant to paragraph (2);
- (e) the scheme manager certifies that M's employment is terminated in the interests of the efficient discharge of the employing authority's functions;
- (f) M has ceased to be employed in HSC employment; and
- (g) not later than 6 months after M's employment is terminated, M applies under paragraph 4 of Schedule 3 for payment of a premature retirement pension.

(2) The notice must state that—

- (a) M's pensionable employment was terminated in the interests of the efficient discharge of the employing authority's functions;
- (b) M has at least 2 years continuous employment determined in accordance with any terms and conditions applying to the employment;
- (c) the employing authority agrees that a premature retirement pension should become payable to M; and
- (d) M has not unreasonably refused—
  - (i) to seek suitable alternative employment, or
  - (ii) to accept an offer of such employment.

(3) A certificate under paragraph (1)(e) may be given only with the agreement of M's employing authority.

(4) A premature retirement pension is payable for life.

(5) A relevant member is a member who is not—

- (a) a practitioner,
- (b) a non-GP provider, or
- (c) practice staff.

(6) Part 4 of Schedule 11 has effect in respect of the calculation of the amount of a premature retirement pension.

### **Premature retirement on grounds of redundancy**

**81.**—(1) A relevant member (M) is entitled to payment of a premature retirement pension from the entitlement day if—

- (a) M has reached normal minimum pension age but has not reached normal pension age;
- (b) M is qualified for retirement pension benefits;
- (c) M's pensionable service has been terminated by M's employing authority by reason of M's redundancy;
- (d) M's employing authority gives written notice to the scheme manager pursuant to paragraph (2);
- (e) the scheme manager certifies that M's employment is terminated by reason of redundancy;
- (f) M has ceased to be employed in HSC employment; and
- (g) not later than 6 months after M's employment is terminated, M applies under paragraph 4 of Schedule 3 for payment of a premature retirement pension.

(2) The notice must state—

- (a) that M's pensionable service was terminated by reason of M's redundancy;
- (b) that M has at least 2 years continuous employment determined in accordance with any terms and conditions applying to the employment;
- (c) that the employing authority agrees that a premature retirement pension should become payable to M;
- (d) that M has not unreasonably refused—
  - (i) to seek suitable alternative employment, or
  - (ii) to accept an offer of such employment;
- (e) that M is entitled to claim a pension under this regulation as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to M in accordance with those terms and conditions.

(3) A certificate under paragraph (1)(e) may be given only with the agreement of M's employing authority.

(4) A premature retirement pension is payable for life.

(5) M is not entitled to payment of a premature retirement pension if the scheme manager, after consultation with the scheme actuary, decides that the amount of the pension would be less than the amount of the guaranteed minimum pension to which M is entitled.

(6) The payment of M's pension does not start until M's employing authority has paid the contribution required under regulation 34(2).

(7) A relevant member is a member who is not—

- (a) a practitioner,
- (b) a non-GP provider, or
- (c) practice staff.

(8) Part 4 of Schedule 11 has effect in respect of the calculation of the amount of a premature retirement pension.

### **Premature retirement entitlement day**

**82.** The entitlement day for a premature retirement pension is the day immediately following the day on which M ceased to be employed in HSC employment.

## CHAPTER 4

### Partial retirement

#### **Election for partial retirement (members over normal retirement age)**

- 83.**—(1) This regulation applies to a member (M) if—
- (a) M has reached minimum pension age;
  - (b) M continues to be employed in an employment in which M is an active member;
  - (c) M is qualified for retirement benefits;
  - (d) the terms on which M holds or engages in the employment mentioned in sub-paragraph (b) change; and
  - (e) as a result of the change, M is subject to a relevant reduction.
- (2) In paragraph (1), M is subject to a relevant reduction if—
- (a) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the employment mentioned in paragraph (1)(b) are reduced to 90% or less of the amount of M's pensionable earnings during the period of 12 months ending with the election day;
  - (b) where M is a practitioner or a non-GP provider, M's engagement in the employment is reduced to 90% or less of its level during that period.
- (3) If this regulation applies, M may elect to claim immediate payment of pension as specified in the election pursuant to paragraphs (a) and (b)—
- (a) M must specify the percentage of pension M claims (the specified percentage);
  - (b) M must specify whether M claims any additional pension to which M is entitled.
- (4) The election must be exercised by notice in writing to the scheme manager in such form as the scheme manager determines and must be accompanied by—
- (a) where M is neither a practitioner nor a non-GP provider, a statement in writing by the employing authority that the conditions in paragraph (1)(d) and (e) are met;
  - (b) where M is a practitioner or a non-GP provider—
    - (i) appropriate supporting evidence; and
    - (ii) a statement in writing by the RHSCB that the conditions in paragraph (1)(d) and (e) are met.
- (5) The specified percentage must be such that—
- (a) the amount of the pension to which M becomes entitled as a result of the election—
    - (i) is not less than 20% of the pension that would have been payable if M had ceased to be employed in all M's employments at the end of the election day; and
    - (ii) taken together with any increase to which M is entitled in consequence of the election, is not less than 0.05% of M's lifetime allowance on the election day;
  - (b) the amount of the pension in respect of which M does not require immediate payment is not less than 20% of the amount that would have been payable if M had ceased to be employed in all of M's employments at the end of the election day.
- (6) In applying paragraph (5)—
- (a) any additional pension to which M is entitled must be ignored; and
  - (b) the amount in sub-paragraph (a) is the amount of the pension disregarding the effect of an application under regulation 76.

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(7) An election under this regulation may be made on not more than two occasions and the scheme manager must take advice from the scheme actuary regarding—

- (a) any benefits to be paid after the first election (but before the second election);
- (b) any benefits to be paid after a second election; and
- (c) the final payment.

(8) If M was not an active member during the whole of the period of 12 months mentioned in paragraph (2)(a), that paragraph applies as if M's pensionable earnings during that period were—

$$PE \times \frac{365}{N}$$

where—

PE is M's pensionable earnings for the part of that period during which M was an active member; and

N is the number of days in that period on which M was an active member.

(9) In this regulation and regulations 84 to 88, the election day is the day before the relevant deduction takes effect.

#### **Modifications etc. (not altering text)**

- C5** Reg. 83 restricted (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **31(2)**
- C6** Reg. 83(5) modified (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **31(3)**

#### **Effect of election**

**84.**—(1) This regulation applies if a member (M) makes an election under regulation 83.

(2) M is entitled—

- (a) if M has reached normal pension age, to immediate payment of the specified percentage of the pension to which M would be entitled by virtue of regulation 72(1) if M had ceased to be employed in one or more employments on election day;
- (b) if M has not reached normal pension age, to immediate payment of the specified percentage of the pension to which M would be entitled by virtue of regulation 78 if M had ceased to be employed in one or more employments on election day; and
- (c) if the election specifies that M claims immediate payment of additional pension, to the additional pension subject—
  - (i) where sub-paragraph (a) applies, to an increase of the same amount as would be made in that pension pursuant to paragraph 2 of Schedule 11 if M had ceased to be employed on the election day; and
  - (ii) where sub-paragraph (b) applies, to a reduction of the same amount as would have been made in that pension pursuant to regulation 78 if M had so ceased to be employed.

(3) For the purposes of this Part—

- (a) M is a pensioner member as respects—
  - (i) the pension to which M is immediately entitled as a result of making the election; and



- (ii) the specified percentage of the pensionable service that pension represents, as respects which M is an active member on the election day;
- (b) if M continues in pensionable service after the election day, M is an active member as respects—
  - (i) the pensionable service after that day in which M continues; and
  - (ii) so much of the pensionable service as respects which M is an active member as is not within sub-paragraph (a) (the unspecified service); and
- (c) if M does not continue in pensionable service after the election day, M is a deferred member as respects the unspecified service.

### Terms of employment improve after election

- 85.**—(1) This regulation applies if—
- (a) a member (M) has made an election under regulation 83(3);
  - (b) during the period of 12 months beginning with the day following election day the terms on which M holds the employment (or employments) mentioned in regulation 83(1)(b) change again; and
  - (c) as a result M is subject to a relevant increase.
- (2) In paragraph (1) M is subject to a relevant increase if—
- (a) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the employment (or employments) is increased to more than 90% of M's pensionable earnings during the period of 12 months ending with the election day;
  - (b) where M is a practitioner or a non-GP provider, the level of M's engagement in the employment is increased to more than 90% of M's pre-change level.
- (3) [<sup>F29</sup>The amount of M's pension mentioned in regulation 84(2) is abated to zero from the first pension day following the day on which the relevant increment occurred.]
- (4) If, during the period of 12 months beginning with the day following election day, M enters further employment in which M is an active member—
- (a) the terms on which M holds the employment in respect of which the election was made (the election employment) are treated as having changed again; and
  - (b) for the purpose of determining whether M is subject to a relevant increase—
    - (i) where M is a practitioner or a non-GP provider, M's level of engagement in the further employment is treated as engagement in the election employment; and
    - (ii) where M is neither a practitioner nor a non-GP provider, M's pensionable earnings in the further employment are treated as pensionable earnings from the election employment
- (5) Paragraph (3) does not apply if—
- (a) the only change to M's terms as mentioned in paragraph (1)(b) is to M's pensionable earnings;
  - (b) the scheme manager thinks that the annual rate of M's pensionable earnings at the time of the change would have exceeded the annual rate mentioned in paragraph (2)(a).
- (6) If M was not an active member during the whole of the period of 12 months mentioned in paragraph (1)(b), that paragraph applies as if M's pensionable earnings during that period were—

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$$PE \times \frac{365}{N}$$

where—

PE is M's pensionable earnings for the part of that period during which M was an active member; and

N is the number of days in the period on which M was an active member.

(7) In paragraph (2)(b), the pre-change level is the level of M's engagement in the employment during the period of 12 months ending on the election day.

#### Textual Amendments

**F29** Reg. 85(3) omitted (temp.) (1.11.2022) by virtue of [The Health and Social Care Pensions \(Abatement\) \(No 2\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/245\)](#), regs. 1(2), **8**

#### Modifications etc. (not altering text)

**C7** Reg. 85 modified (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **37(1)(b)**

### Member becomes subject to reduction following abatement

**86.**—(1) This regulation applies if—

- (a) regulation 85 applies to a member (M) such that M's pension is abated to zero pursuant to paragraph (3) of that regulation; and
- (b) M again becomes subject to a relevant reduction (within the meaning of regulation 83(2)).

(2) The scheme manager must restore the payment of M's pension with effect from the first pension day immediately following the day on which M became subject to the relevant reduction as mentioned in paragraph (1)(b).

(3) The scheme manager must not act under paragraph (2) unless the scheme manager obtains and has regard to the advice of the scheme actuary as to whether the amount of the pension should be adjusted in view of the length of time during which it was abated to zero.

### Payment of pension after abatement

**87.**—(1) This regulation applies if—

- (a) a member's (M) pension is abated pursuant to regulation 85(3); and
- (b) M's pensionable earnings are not reduced in consequence of M again becoming subject to a relevant reduction as mentioned in regulation 86(2).

(2) M's pension is payable by the scheme manager—

- (a) when M partially retires or retires again from pensionable employment; or
- (b) M attains the age of 75.

(3) For the purposes of paragraph (2), the scheme manager must—

- (a) have regard to any pension already paid, including any lump sum paid as a result of M making an application under regulation 76 (Conversion or part of pension into lump sum); and
- (b) obtain advice from the scheme actuary.

### Application of regulations 83 to 87: concurrent employments

**88.**—(1) This regulation applies if a person (M) is an active member in two or more employments held concurrently on the election day.

(2) Regulations 83 to 87 apply in relation to each of the employments as if it were the only employment held by M on that day, subject to the following modifications.

(3) In regulation 83—

(a) for paragraph (2)(a) substitute—

“(a) where M is neither a practitioner nor a non-GP provider, if the sum of the annual rate of M's pensionable earnings in that employment and every other employment held by M on the election day is reduced to 90% or less of the sum of—

(i) M's pensionable earnings in the employment during the period of 12 months ending with the election day; and

(ii) M's pensionable earnings during that period in every other employment held by M on that day.”; and

(b) in paragraph (8), after “paragraph (2)(a)” insert “ in respect of any employments held by M ”.

(4) In regulation 85, for paragraph (2)(a) substitute—

“(a) where M is neither a practitioner nor a non-GP provider, the annual rate of M's pensionable earnings in the employment is increased to more than 90% of the sum of—

(i) M's pensionable earnings in the employment during the period of 12 months ending with the election day; and

(ii) M's pensionable earnings during that period in every other employment held by M on that day.”.

(5) In the case of a practitioner or non-GP provider, a reference to M's employment is a reference to M's pensionable service as a practitioner together with any concurrent HSC employment, and “terms of employment” must be construed accordingly.

## CHAPTER 5

### Ill-Health pension

#### Entitlement to ill-health pension

**89.**—(1) An active member (M) is entitled to immediate payment of—

(a) an ill-health pension at Tier 1 (a Tier 1 IHP) if the Tier 1 conditions are satisfied in relation to M;

(b) an ill-health pension at Tier 2 (a Tier 2 IHP) if the Tier 2 conditions are satisfied in relation to M.

(2) The Tier 1 conditions are that—

(a) M has not attained normal pension age;

(b) M has ceased to be employed in HSC employment;

(c) the scheme manager is satisfied that M suffers from physical or mental infirmity as a result of which M is permanently incapable of efficiently discharging the duties of M's employment;

(d) M's employment is terminated because of the physical or mental infirmity; and

(e) M claims payment of the pension.

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- (3) The Tier 2 conditions are that—
- (a) the Tier 1 conditions are satisfied in relation to M; and
  - (b) the scheme manager is also satisfied that M suffers from physical or mental infirmity as a result of which M is permanently incapable of engaging in regular employment of like duration.
- (4) M is not entitled to payment of a pension under this regulation if M's HSC employment is terminated because—
- (a) M is dismissed (unless the scheme manager is satisfied that the dismissal was because of M's infirmity);
  - (b) M retires or resigns at a time when—
    - (i) M is subject to disciplinary proceedings; or
    - (ii) had been notified that such proceedings were being contemplated; or
  - (c) M otherwise retires or resigns, unless—
    - (i) at the time of doing so M's employing authority has notified the scheme manager in writing that M's physical or mental infirmity is the reason for the termination; and
    - (ii) the scheme manager is satisfied that is the case.
- (5) In paragraph (3)(b), “regular employment of like duration” means—
- (a) in the case of a practitioner or a non-GP provider, such employment as the scheme manager thinks would involve a similar level of engagement to M's current pensionable service as a practitioner or non-GP provider;
  - (b) in any other case, where prior to ceasing HSC employment, M was employed—
    - (i) on a whole-time basis, regular employment on a whole time basis;
    - (ii) on a part-time basis, regular employment on a part-time basis, regard being had to the number of hours, half days and sessions M worked in the employment.
- (6) A pension under this regulation is payable for life: but see regulations 94 and 95.

### **Member's incapacity**

**90.**—(1) For the purpose of determining whether a member (M) is permanently incapable of discharging the duties of M's employment efficiently the scheme manager must—

- (a) have regard to the factors in paragraph (2), no one of which is to be decisive; and
  - (b) disregard M's personal preference for or against engaging in the employment.
- (2) The factors mentioned in paragraph (1)(a) are—
- (a) whether M has received appropriate medical treatment in respect of the infirmity;
  - (b) M's mental capacity;
  - (c) M's physical capacity;
  - (d) the type and period of rehabilitation it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the rehabilitation; and
  - (e) any other matter the scheme manager thinks appropriate.
- (3) For the purpose of determining whether M is permanently incapable of engaging in regular employment of like duration as mentioned in paragraph (3)(b) of regulation 89, the scheme manager must—
- (a) have regard to the factors in paragraph (4), no one of which is to be decisive; and
  - (b) disregard the factors in paragraph (5).

- (4) The factors mentioned in paragraph (3)(a) are—
- (a) whether M has received appropriate medical treatment in respect of the infirmity;
  - (b) such reasonable employment as M would be capable of engaging in if due regard is given to—
    - (i) M's mental capacity;
    - (ii) M's physical capacity;
    - (iii) M's previous training; and
    - (iv) M's previous practical, professional and vocational experience, irrespective of whether or not such employment is available to M;
  - (c) the type and period of rehabilitation it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the rehabilitation, having regard to—
    - (i) M's mental capacity; and
    - (ii) M's physical capacity;
  - (d) the type and period of training it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the training, having regard to—
    - (i) M's mental capacity;
    - (ii) M's physical capacity;
    - (iii) M's previous training; and
    - (iv) M's previous practical, professional and vocational experience; and
  - (e) any other matter the scheme manager thinks appropriate.
- (5) The factors mentioned in paragraph (3)(b) are—
- (a) M's personal preference for or against engaging in any particular employment; and
  - (b) the geographical location of M.
- (6) In this regulation—
- “appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the infirmity, but does not include any treatment that the scheme manager considers—
- (a) that it would be reasonable for M to refuse;
  - (b) would provide no benefit to restoring M's capacity for—
    - (i) discharging the duties of M's employment efficiently for the purposes of paragraph (2)(c) of regulation 89; or
    - (ii) engaging in regular employment of like duration for the purposes of paragraph (3)(b) of that regulation;
  - (c) that through no fault on the part of M, it is not possible for M to receive before M reaches normal pension age.
- “permanently” means until M attains M's prospective normal pension age; and
- “regular employment of like duration” has the same meaning as in regulation 89.

#### **Annual rate of ill-health pension**

- 91.—**(1) The annual rate of Tier 1 IHP payable to a member (M) is found by—
- (a) taking the amount of full retirement earned pension specified in M's pensioner member's account;

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- (b) subtracting the conversion amount (if any) specified in that account in relation to that amount; and
  - (c) adding the amount of accrued additional pension (if any) calculated in accordance with regulation 69(3)(b) less the conversion amount (if any) specified in the account in relation to the additional pension.
- (2) The annual rate of Tier 2 IHP payable to M is the sum of—
- (a) the annual rate of Tier 1 IHP; and
  - (b) the Tier 2 addition.
- (3) The Tier 2 addition is found by applying the following formula—

$$\frac{A \times (C + E)}{C} - A$$

where—

A is the aggregate of the amounts of all of M's pensions from pensionable service on the day after M's last day of pensionable service (L+1)—

- (i) disregarding any additional pension; and
- (ii) including any increases applied by virtue of the Pensions (Increase) Act (Northern Ireland) 1971 <sup>M18</sup>;

C is the total period of pensionable service counted in days over which the pensions aggregated to find A were accrued; and

E is the period equal to 50% of the length of the period starting on L+1 and ending on M's prospective normal pension age, and any part of a day must be taken to be a whole day.

#### **Marginal Citations**

**M18** 1971 c.35 (N.I.)

#### **Re-assessment of entitlement**

**92.**—(1) This regulation applies if—

- (a) in respect of a member (M) the scheme manager is satisfied as mentioned in regulation 89(2)(c); and
- (b) at the time M is awarded a pension the scheme manager gives M notice in writing as mentioned in paragraph (2).

(2) The notice is that M's case may be considered once within a period of three years beginning with the date of the award to determine whether, at the date of the consideration, M meets the condition in regulation 89(3)(b).

(3) M may apply to the scheme manager for a review of whether M subsequently meets the condition in regulation 89(3)(b) if—

- (a) M makes the application in writing not later than the relevant date;
- (b) the application is accompanied by further written medical evidence—
  - (i) relating to whether, at the date of the scheme manager's review, M has the physical or mental infirmity mentioned in regulation 89(3)(b); and
  - (ii) that relates to the same physical or mental infirmity as a result of which M met the condition in regulation 89(2)(c);

- (c) no previous application for a review has been made under this paragraph; and
  - (d) M has not become entitled to a Tier 2 IHP in respect of any later service under regulation 96.
- (4) The relevant date in paragraph (3)(a) is—
- (a) the last day of the period of three years after the giving of notice under paragraph (1)(b); or
  - (b) if M engages in further HSC employment during that period, the first anniversary of the day on which the employment commences or, if sooner, the last day of that period.
- (5) If, after considering the further medical evidence the scheme manager determines that M has the physical or mental infirmity for the purposes of regulation 89(3)(b), with effect from the date the determination is made, M—
- (a) ceases to be entitled to a Tier 1 IHP; and
  - (b) becomes entitled to a Tier 2 IHP.
- (6) If a determination is made under paragraph (5), in calculating the Tier 2 addition pursuant to regulation 91(3), in the explanation of factor E for “period starting on L+1” substitute “ period starting on day of the determination under regulation 92(5) ”.

#### **Early retirement on ill-health (deferred members)**

- 93.**—(1) A deferred member (DM) is entitled to immediate payment of a pension if—
- (a) DM is not in HSC employment;
  - (b) DM has not attained normal pension age;
  - (c) the scheme manager is satisfied that DM suffers from physical or mental infirmity as a result of which DM is permanently incapable of engaging in regular employment of like duration; and
  - (d) DM claims payment of the pension.
- (2) DM is entitled to immediate payment of a pension if—
- (a) DM is in HSC employment;
  - (b) DM has not attained normal pension age;
  - (c) the scheme manager is satisfied that DM—
    - (i) is not within paragraph (1)(b); but
    - (ii) suffers from physical or mental infirmity as a result of which DM is permanently incapable of discharging the duties of DM's employment efficiently; and
  - (d) DM has left the employment and claims payment of the pension.
- (3) The amount of a pension payable under this regulation is found by applying regulation 91(1) as if—
- (a) a reference to M is a reference to DM; and
  - (b) the pension under this regulation is a Tier 1 IHP.
- (4) Regulation 90 applies for the purposes of this regulation as if—
- (a) a reference to M is a reference to DM; and
  - (b) a reference to regular employment of like duration is a reference to such employment for the purposes of paragraph (1)(c).

#### **Effect of re-employment on Tier 2 IHP**

- 94.**—(1) This regulation applies if a member (M)—

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- (a) is entitled to a Tier 2 IHP under regulation 89 in respect of earlier service;
  - (b) did not opt to exchange the pension for a lump sum in accordance with regulation 108; and
  - (c) has re-entered employment (M's further employment).
- (2) M continues to be entitled to a Tier 2 IHP if M's further employment—
- (a) is not HSC employment, and
  - (b) is an excluded employment.
- (3) M continues to be entitled to a Tier 2 IHP during the initial period if M's further employment—
- (a) is HSC employment, and
  - (b) is an excluded employment.
- (4) M ceases to be entitled to a Tier 2 IHP and is treated as being entitled to a Tier 1 IHP if—
- (a) M's employment—
    - (i) is not HSC employment; and
    - (ii) is not an excluded employment, or
  - (b) during the initial period, M's employment—
    - (i) is HSC employment; and
    - (ii) is not an excluded employment; or
  - (c) after the initial period, M's employment is HSC employment.
- (5) As regards further employment in HSC employment—
- (a) paragraph (4)(c) applies from the first day on which payment of a Tier 1 IHP falls after the first anniversary of M's re-entry into HSC employment, whether or not that day is part of a continuous period of further HSC employment beginning with entry into that employment;
  - (b) M may not rejoin the scheme in respect of that employment or any other HSC employment until after the first anniversary of M's re-entry into HSC employment, whether or not that or any other HSC employment is an excluded employment.
- (6) For the purposes of this regulation—
- (a) an employment is an excluded employment at any time in a tax year, in relation to M, if M's earnings from the employment and any other employments are such that the lower earnings limit for the purposes of national insurance for that year is not exceeded;
  - (b) for the purposes of paragraph (4) an employment that has been an excluded employment in a tax year is not treated as ceasing to be such an employment until the first day following the end of the pension pay period for the Tier 2 IHP in which the limit described in subparagraph (a) is first exceeded, and
  - (c) “the initial period” means the period of 12 months beginning with the day on which M first enters an employment which results in this regulation applying.
- (7) M must—
- (a) notify the scheme manager if M is in HSC employment at the end of the initial period;
  - (b) notify the scheme manager if M's aggregate earnings for the purposes of national insurance from employments held in a tax year are such that the lower earnings limit for that year is exceeded; and
  - (c) provide the scheme manager or any other person specified by the scheme manager with such further information as the scheme manager specifies concerning any further employment.
- (8) In this regulation—



- (a) the lower earnings limit must be read in accordance with section 5 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 <sup>M19</sup>;
- (b) “tax year” means a year of assessment for income tax purposes.

#### Marginal Citations

**M19** 1992 c.7 (N.I.) Section 5 was substituted by section 73 of, and paragraph 1 of Schedule 9 to, the [Welfare Reform and Pensions Act 1999 \(c.30\)](#) and amended by sections 7(1) and (3) and 27(2) of, and Part 4 of Schedule 7 to, the [Pensions Act 2007 \(c.22\)](#) and sections 1(1) and 4(2) of, and Schedule 2 to, the [National Insurance Contributions Act 2008 \(c.16\)](#)

#### Renewed entitlement to Tier 2 IHP

- 95.**—(1) This regulation applies to a member (M) who—
- (a) has not attained normal pension age; and
  - (b) has ceased to be entitled to a Tier 2 IHP by virtue of regulation 94(4).
- (2) M may apply to the scheme manager under this regulation to become entitled to a Tier 2 IHP if—
- (a) M is in further HSC employment and ceases to be employed at all during the initial period; or
  - (b) M is in further employment that is not HSC employment and ceases to be employed in that further employment within a period of one year beginning with the day on which the further employment ceased to be an excluded employment.
- (3) An application to which paragraph (2)(a) applies must—
- (a) state that M has ceased to be employed at all;
  - (b) be made within the initial period;
  - (c) be in writing and be accompanied by evidence from a registered medical practitioner that M has the physical or mental infirmity mentioned in regulation 89(3)(b).
- (4) An application to which paragraph (2)(b) applies must—
- (a) state that M has ceased to be employed at all;
  - (b) be made within the period of one year beginning with the day on which the employment ceased to be an excluded employment;
  - (c) be in writing and be accompanied by evidence from a registered medical practitioner that M has the physical or mental infirmity mentioned in regulation 89(3)(b).
- (5) If the scheme manager is satisfied that M has the physical or mental infirmity mentioned in regulation 89(3)(b), from the day following that on which M's last employment ceased—
- (a) M ceases to be treated as entitled to the Tier 1 IHP; and
  - (b) M becomes entitled to a Tier 2 IHP in respect of the earlier service.
- (6) Expressions used in this regulation and in regulation 94 have the same meaning as in that regulation.

#### Re-employed Tier 1 IHP members

- 96.**—(1) This regulation applies to a member (M) if M is entitled to a Tier 1 IHP in respect of M's earlier service.
- (2) M is entitled to the benefits in paragraph (3) if—

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- (a) M became entitled to a Tier 1 IHP for the earlier service, and,
  - (b) on the termination of the later service, M becomes entitled to a Tier 1 IHP or a Tier 2 IHP.
- (3) The benefits are—
- (a) M's original Tier 1 IHP in respect of M's earlier service, and
  - (b) a Tier 1 IHP or a Tier 2 IHP (as the case may be) in respect of M's later service.
- (4) M is entitled to the benefits in paragraph (5) if—
- (a) M ceases to be entitled to a Tier 1 IHP in respect of the earlier service;
  - (b) M becomes entitled to a Tier 2 IHP in respect of the earlier service in accordance with regulation 92(5); and
  - (c) on the termination of the later service, M becomes entitled to a Tier 1 IHP or a Tier 2 IHP (as the case may be) in respect of the later service.
- (5) The benefits are—
- (a) a Tier 2 IHP paid in accordance with regulation 92 in respect of M's earlier service; and
  - (b) a Tier 1 IHP in respect of M's later service.

## CHAPTER 6

### Dual capacity and multiple employments

#### **Dual capacity membership: pension benefits**

- 97.**—(1) This paragraph applies if a member is—
- (a) a member of this scheme in two or more of the kinds specified in paragraph (2),
  - (b) a pensioner member in respect of two or more pensions, or
  - (c) a deferred member in respect of two or more pensions.
- (2) The kinds of member are—
- (a) an active member;
  - (b) a deferred member;
  - (c) a pensioner member;
  - (d) a pension credit member.
- (3) If paragraph (1) applies—
- (a) pension benefits are payable to the member (or to a person to whom the member has elected to allocate a pension under regulation 50) as if the member were two or more members of the kind in question (so that two or more pensions or lump sums are payable in respect of one member); and
  - (b) the amounts payable are determined accordingly.
- (4) If a person who is a pension credit member is entitled to two or more pension credits—
- (a) benefits are payable to the member under this scheme as if the member were two or more persons, each being entitled to one of the pension credits (so that two or more pensions or lump sums are payable in respect of one pension credit member); and
  - (b) the amounts payable are determined accordingly.

### **Deferred pension becomes payable during HSC re-employment following transfer of undertaking**

**98.**—(1) A member is not prevented from becoming entitled to relevant pension because of continuing HSC employment if—

- (a) the member is an active member in the HSC employment which is employment into which the member has been transferred as a result of a transfer of an undertaking to the employing authority; and
- (b) the member is a deferred member in respect of pensionable service that ceased before the member commenced the employment mentioned in sub-paragraph (a).

(2) Benefits payable in respect of new employment (within the meaning of regulation 100(3)) are calculated without regard to pensionable service in respect of the old employment (within the meaning of that regulation).

(3) A relevant pension is a pension in respect of pensionable service referred to in paragraph (1) (b).

### **Retirement benefits for members with more than one employment**

**99.**—(1) This regulation applies to a member (M) who is in receipt of pensionable earnings in respect of two or more employments each of which is attributable to M belonging to any of groups A to C in the table in regulation 27(1).

(2) Subject to paragraphs (4) and (5), M does not become entitled to a pension under any of the regulations specified in paragraph (3) until—

- (a) the termination of all of M's HSC employments (including employment as a practitioner), or
- (b) M reaches the age of 75.

(3) The regulations are—

- (a) regulation 72;
- (b) regulation 78;
- (c) regulation 80;
- (d) regulation 81;
- (e) regulations 89 to 96.

(4) Paragraph (5) applies if M—

- (a) leaves employment (“past employment”) with one employing authority; and
- (b) in relation to the past employment, becomes entitled to a pension under regulation 80 or 81.

(5) M may elect—

- (a) to take benefits only in respect of the past employment; and
- (b) to continue to accrue rights in respect of any other continuing pensionable employment.

(6) If M elects as mentioned in paragraph (5), paragraph (2) applies in relation to an employment in respect of which M continues to accrue rights to benefits.

(7) Chapter 7 of Part 5 applies if M becomes entitled to a pension under paragraph (5) while continuing in other HSC employment.

(8) Paragraphs (9) and (10) apply if—

- (a) M becomes entitled to a pension under regulation 80 or 81; and

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(b) terminated concurrent employment as a practitioner not more than 12 months before becoming entitled to the pension.

(9) M is not entitled to receive a pension under regulation 80 or 81 in respect of any employment as a practitioner, but is entitled only to receive a pension in respect of that employment pursuant to regulation 72 or 78.

(10) M may exercise a right to transfer out under Section 2 of Chapter 2 of Part 7 only if M leaves all pensionable service —

- (a) before reaching normal pension age; and
- (b) before becoming entitled to a pension under this scheme.

## CHAPTER 7

### Abatement on re-employment

#### **Application of Chapter**

**100.**—(1) This Chapter applies if—

- (a) a person who is a pensioner member of this scheme is employed in HSC employment;
- (b) the pensioner member's employment is not employment to which the pensioner member was transferred as a result of a transfer of an undertaking to the pensioner member's employer;
- (c) the pensioner member's pension is a pension under—
  - (i) regulation 89,
  - (ii) regulation 93, or
  - (iii) regulation 80; and
- (d) the pensioner member has not reached normal pension age.

(2) In this Part “HSC employment” includes—

- (a) employment in which a person of a category or description listed in Schedule 6 is engaged if the scheme manager has made a determination under section 25(5) of the 2014 Act in respect of the person; and
- (b) employment to which a corresponding health service scheme applies.

(3) In this Chapter—

- (a) a person to whom this Chapter applies is referred to as an “employed pensioner”;
- (b) the pension to which the employed pensioner is entitled is referred to as the “old service pension”;
- (c) the employment in respect of which the pension is payable is referred to as the “old employment”;
- (d) the employment in which the employed pensioner is employed is referred to as the “new employment”.

(4) For the purposes of this Chapter it is immaterial whether or not the employed pensioner is an active member of this scheme in the new employment.

(5) This paragraph applies to a person who is not eligible to be an active member of this scheme on the effective date and remains ineligible to be such a member.

(6) This paragraph applies to a person who exercises an option not to re-join this scheme which takes effect from the effective date and has not been cancelled.

(7) This paragraph applies to a person who—

- (a) is not eligible to re-join this scheme on the effective date;
- (b) becomes eligible to do so on the day immediately after the first anniversary of the person entering HSC employment in accordance with regulation 94(5)(b) (the eligibility day); and
- (c) exercises an option not to re-join this scheme that takes effect from the eligibility day which has not been cancelled.

**Modifications etc. (not altering text)**

**C8** Reg. 100(1) modified (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **36(1)(a)**, 37(1)(a)

**Information**

- 101.**—(1) A person who becomes an employed pensioner must—
- (a) inform the employed pensioner's employer in the new employment and any other specified person that the old service pension is payable; and
  - (b) where requested, provide specified information about the employed pensioner's relevant income in the new employment to the scheme manager or a specified person.
- (2) A person who ceases to be an employed pensioner in one new employment and becomes an employed pensioner in another new employment must—
- (a) inform the person's employer in the other new employment, and any specified person that the old service pension is payable;
  - (b) where requested, provide specified information about the employed pensioner's relevant income in the other new employment to the scheme manager or a specified person.
- (3) In this regulation, “specified” means specified by the scheme manager.
- (4) Relevant income must be construed in accordance with regulation 103.

**Reduction of pension**

- 102.**—(1) If the condition in paragraph (2) is met, the amount of the old service pension for a scheme year is reduced.
- (2) The condition is that the employed pensioner's relevant income for the scheme year exceeds the employed person's previous earnings.
- (3) The amount of the reduction under paragraph (1)—
- (a) is equal to the excess; but
  - (b) must not exceed the enhancement amount.
- (4) Relevant income and the enhancement amount must be construed in accordance with regulation 103.
- (5) Previous earnings must be construed in accordance with regulations 104 and 105.
- (6) For the purpose of calculating the reduction to be made under paragraph (1) in respect of any part of a scheme year, the amount of the employed pensioner's previous earnings must be reduced proportionately.
- (7) If the employed pensioner has a guaranteed minimum under section 10 of the 1993 Act <sup>M20</sup> in relation to the old service pension, nothing in this regulation requires the reduction of that pension below the amount of the guaranteed minimum.

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

### Marginal Citations

**M20** Section 10 was amended by the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#) Articles 147, 168, Schedule 3 paragraph 20, Schedule 5 Part III; the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#) Article 3(1) and Schedule 1 paragraph 41; the [Proceeds of Crime Act 2002 \(2002 c.29\)](#) Schedule 11 paragraph 23(3)

### Relevant income and enhancement amount

- 103.**—(1) An employed pensioner's relevant income for a scheme year is the aggregate of—
- (a) the amount of earnings received by the employed person during the year from the new employment, and
  - (b) the enhancement amount.
- (2) The enhancement amount is the difference between—
- (a) the amount of the old service pension for that scheme year, and
  - (b) the amount the pension would have been had it been payable under regulation 78 (early retirement).
- (3) If the old service pension is payable under regulation 89 or 93 (Ill-health pensions) to an employed pensioner who had not attained normal minimum pension age at the time when entitlement to the pension arose, for the purposes of paragraph (2)(b)—
- (a) the fact that entitlement to a pension under regulation 78 depends on reaching that age is ignored, but
  - (b) the employed pensioner's actual age at the relevant time is taken into account in determining the reduction to be made under Part 3 of Schedule 11.
- (4) If the old service pension is an ill-health pension at Tier 2, for the purposes of paragraph (2)(b), only the employed pensioner's actual pensionable service at the time when entitlement to the pension arose is taken into account in determining the amount that would have been payable under regulation 78.
- (5) If the employed pensioner exercised the option under regulation 76 (conversion of part of pension to lump sum) in relation to the old service pension, the resulting reduction in the pension is ignored for the purposes of this regulation.
- (6) If the employed pensioner exercised the option under regulation 50 (election to allocate pension) in relation to the old service pension, the resulting reduction is taken into account for the purpose of this regulation.
- (7) References to the amount of a pension for a scheme year are to its amount for that year after any increases payable in respect of the pension under the Pensions (Increase) Act (Northern Ireland) 1971 <sup>M21</sup>, including increases that would have been payable in respect of an amount not paid because of a reduction ignored under paragraph (5).
- (8) For the purposes of paragraph (1)(a), the employed pensioner is assumed to be an active member of this scheme in the new employment.

### Marginal Citations

**M21** [1971 c.35 \(N.I.\)](#)

### Previous earnings: general

104.—(1) For the purposes of this Chapter, an employed pensioner's previous earnings is construed in accordance with this regulation.

(2) If the employed pensioner's old employment was neither as a practitioner nor as a non-GP provider, the previous earnings is the greater of—

- (a) the optimum re-valued pensionable earnings in the old employment; and
- (b) the annual rate of pay for the old employment at the time it ceased.

(3) If the employed pensioner's old employment was as a practitioner or non-GP provider the previous earnings is the average of the annual amounts of the person's earnings in respect of practitioner service.

(4) The optimum re-valued pensionable earnings is the re-valued pensionable earnings for the scheme year in the earnings reference period for which the employed pensioner has the greatest amount of re-valued pensionable earnings.

(5) The annual rate of pay is the sum of—

- (a) the annual rate of so much of the employed pensioner's pensionable earnings immediately before the old service pension became payable as consisted of salary, wages, or other regular payments of a fixed nature, and
- (b) so much of any fees and other regular payments not of a fixed nature as—
  - (i) was payable to the employed pensioner during the period of 12 months ending with the day the old employment ceased, and
  - (ii) formed part of the employed pensioner's pensionable earnings.

(6) The amount to be taken as the employed pensioner's previous earnings must be adjusted in each scheme year by increasing it by the same amount as that by which an annual pension equal to that amount would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971 at 6th April in that scheme year if—

- (a) the pension was eligible to be so increased, and
- (b) the beginning date for the pension were the same as the beginning date for the old service pension.

(7) In this regulation and regulation 105—

“re-valued pensionable earnings” means in relation to each scheme year in the earnings reference period, the pensionable earnings for that year increased up to the beginning date for the old service pension by the rate of change in prices specified by the Department of Finance and Personnel by order under section 9 of the 2014 Act;

“the earnings reference period” is the period ending on the last day of the scheme year immediately preceding the scheme year in which the employed pensioner left the old employment and starting on the later of—

- (a) the first day of the scheme year in which the employed pensioner first joined this scheme; and
- (b) the first day of the tenth scheme year preceding the scheme year in which the employed pensioner left the old employment.

(8) In paragraph (6) the beginning date, in relation to a pension, is the date on which it is deemed to begin for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971 (see section 8(2) of that Act) <sup>M22</sup>.

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

### **Marginal Citations**

**M22** 1972 c.35 (N.I.) Section 8(2) was amended by Article 3(5) of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990, (1990 /1509 (N.I. 13)) and Articles 36(1) and (3) of the Welfare Reform and Pensions (Northern Ireland) Order 1999, (1999/3147 (N.I.11))

### **Previous earnings: continuing and concurrent employments**

**105.**—(1) This regulation applies if an employed pensioner has held one or more other HSC employments at the same time as the old employment.

(2) If the employed pensioner's old employment was neither as a practitioner nor as a non-GP provider, the previous earnings is the amount determined under regulation 104 increased as follows—

- (a) if the person holds a continuing non-practitioner employment on becoming entitled to the old service pension, the increase is the annual rate of earnings in respect of the continuing employment;
- (b) if the person holds a continuing practitioner employment on becoming entitled to the old service pension, the increase is the average of the annual amounts of the person's re-valued pensionable earnings in respect of practitioner employment.

(3) If the employed pensioner's old employment was as a practitioner, the previous earnings is the amount determined under regulation 104 increased as follows—

- (a) if the person becomes entitled to receive simultaneously a pension in respect of rights accrued from non-practitioner employment, the increase is the amount of previous earnings in respect of the non-practitioner employment;
- (b) if the person holds a continuing non-practitioner employment on becoming entitled to the old service pension, the increase is the annual rate of earnings of the continuing employment.

(4) Paragraph (5) applies if—

- (a) the employed pensioner held a part-time pensionable employment immediately before the old service pension becomes payable;
- (b) in the 12 months preceding the date on which the old service pension becomes payable the person held concurrent part-time pensionable employment; and
- (c) the employment mentioned in sub-paragraph (b) terminated before the old service pension becomes payable.

(5) The employed pensioner's previous earnings are increased by—

- (a) the annual rate of earnings in respect of the concurrent part-time pensionable employment, or
- (b) if higher, that part of the pensionable earnings for the employment which is attributable to any part of the period of 12 months mentioned in paragraph (4)(b).

(6) Paragraph (7) applies if—

- (a) in the period of 12 months before the date on which the old service pension becomes payable the employed pensioner was in pensionable employment as a practitioner; and
- (b) the pensionable employment terminated before the old service pension became payable.

(7) The previous earnings are increased by the average of the annual amounts of the person's re-valued pensionable earnings in respect of the employment mentioned in paragraph (6).

(8) Paragraph (9) applies if—



- (a) a practitioner becomes entitled to payment of a pension under this scheme;
  - (b) in the 12 months before the entitlement arises the practitioner held concurrent pensionable non-practitioner employment; and
  - (c) the employment is terminated before the pension becomes payable.
- (9) The previous earnings are increased by—
- (a) the annual rate of earnings in respect of the employment mentioned in paragraph (8), or
  - (b) if higher, that part of the pensionable earnings for the employment which is attributable to any part of the period of 12 months mentioned in paragraph (8)(b).
- (10) Non-practitioner employment is employment which is neither as a practitioner nor as a non-GP provider, and references to practitioner employment must be construed accordingly.
- (11) Continuing employment is pensionable employment—
- (a) which a person held immediately before becoming entitled to payment of a pension under this scheme; and
  - (b) which the person continues to hold whether it is pensionable or not.

### Multiple pensions

**106.**—(1) This regulation applies if an employed pensioner is entitled to more than one old service pension within regulation 100(1)(c) in a scheme year.

(2) In regulation 102, for paragraphs (1) and (2) substitute—

“(1) If the condition in paragraph (2) is met, the amount of the old service pensions for a scheme year are reduced.

(2) The condition is that the employed pensioner's relevant income for the scheme year exceeds the employed person's previous earnings for all old employments.

(2A) The amount of the reduction under paragraph (1) in the case of each of the pensions is equal to the same proportion of the excess as the amount of the pension for the scheme year before the reduction bears to the sum of the pensions for that year before the reduction.”.

(3) In regulation 103—

(a) for paragraph (2) substitute—

“(2) The enhancement amount is the difference between—

(a) the aggregate amount of all old service pensions for that scheme year, and

(b) the aggregate amount all of those pensions would have been if they had each been payable under regulation 78 (Early payment of pension with actuarial reduction).”;

(b) subsequent references to the old service pension must be taken as references to every old service pension to which the substituted paragraph (2) applies.

(4) Regulation 107 applies as if references to an old service pension were references to every such pension.

### Adjustment of reductions

**107.**—(1) If the old service pension for a scheme year is being reduced under this Chapter, the scheme manager must review the amount of the reduction—

(a) at the end of the scheme year; and

(b) at any time during the scheme year if it appears to the scheme manager that—

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- (i) the amount of the reduction made for the year is, or may become, incorrect; or
- (ii) no reduction should be made.

(2) If at any time during the scheme year it appears to the scheme manager as mentioned in paragraph (1)(b), the scheme manager must make such adjustments as appear to be required, whether by—

- (a) altering the amount of the reduction, or
- (b) repaying to the employed pensioner any amount that should not have been deducted from the pension.

(3) If at the end of the scheme year it is apparent that—

- (a) the reduction in the old service pension for the year was excessive, or
- (b) no such reduction should have been made,

the scheme manager must repay the amount due to the employed pensioner.

(4) If at the end of the scheme year it is apparent that the old service pension paid for the year exceeded the amount due because the reduction in the old service pension required under regulation 102 was not made, the employed pensioner must repay the excess to the scheme manager.

(5) Paragraph (4) does not affect the right of the scheme manager to recover a payment or overpayment which is due.

## CHAPTER 8

### Serious ill health option

#### **Option for members in serious ill health to exchange pension for lump sum**

**108.**—(1) An active member, a deferred member or a pension credit member may opt to exchange a relevant pension for a lump sum if the scheme manager is satisfied that the conditions for the lump sum to be a serious ill-health lump sum for the purposes of the 2004 Act will be met (see paragraph 4 of Schedule 29 to that Act) <sup>M23</sup>.

(2) For the purposes of paragraph (1), a “relevant pension” is a pension payable to that member under regulation 72, 75, 89 or 93.

(3) The option may only be exercised—

- (a) in the case of a pension payable under regulation 72 or 75, before or at the time when the pension becomes payable;
- (b) in the case of a pension payable under regulation 89 or 93, before the pension becomes payable to the member.

(4) An active member who has reached normal pension age who exercises the option is to be paid, as soon as is reasonably practicable, an amount equal to the sum of—

- (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 76 if at the appropriate time the member had become entitled to a pension under regulation 72, and
- (b) the annual rate of the pension to which the member would have been entitled under regulation 72 after exercising that option, multiplied by 5.

(5) An active member entitled to a pension under regulation 89 who exercises the option is to be paid, as soon as is reasonably practicable, an amount equal to the sum of—

- (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 76 at the appropriate time, and

- (b) the annual rate of the pension to which the member is entitled under regulation 89 after exercising that option, multiplied by 5.
- (6) A pension credit member entitled to a pension under regulation 75 who exercises the option is to be paid as soon as reasonably practicable, amount equal to the sum of—
  - (a) the maximum lump sum (if any) to which the pension credit member could have become entitled on exercising the option under regulation 76 at the appropriate time; and
  - (b) the total annual amount of the pension to which the pension credit member is entitled under regulation 75 after exercising the option multiplied by 5.
- (7) A deferred member entitled to a pension under regulation 93 who exercises the option is to be paid, as soon as is reasonably practicable, an amount equal to the sum of—
  - (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 76 at the appropriate time, and
  - (b) the annual rate of the pension to which the member is entitled under regulation 91 after exercising that option, multiplied by 5.
- (8) “The appropriate time” means--
  - (a) for the purposes of paragraph (4) and (6), the time when the option under this regulation is exercised, and
  - (b) for the purposes of paragraphs (5) and (7), the time payment of the pension under regulation 89 or, as the case may be, regulation 93 would otherwise first be due.
- (9) References to the annual rate of a pension are to the amount of the annual pension to which the member would be entitled, together with any increases payable under the Pensions (Increase) Act (Northern Ireland) 1971 <sup>M24</sup>, calculated as at the appropriate time.
- (10) The option under this regulation may only be exercised by notice in writing to the scheme manager in such form as the scheme manager requires.

#### Marginal Citations

**M23** Paragraph 4 of Schedule 29 has been amended by section 65 of, and paragraphs 23 and 28 of Schedule 16 to, the [Finance Act 2011 \(c.11\)](#)

**M24** [1971 c.35 \(N.I.\)](#)

## CHAPTER 9

### Contracting out obligations

#### Guaranteed minimum pension etc

- 109.**—(1) If a member (M) has a guaranteed minimum pension under section 10 of the 1993 Act <sup>M25</sup> in relation to benefits under this scheme, nothing in these Regulations —
- (a) permits or requires anything that would cause requirements made by or under that Act in relation to M and M's rights under this scheme not to be met in the case of M; or
  - (b) prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of M.
- (2) Paragraph (3) applies if apart from this regulation—
- (a) no pension would be payable to M under this scheme, or
  - (b) the weekly rate of the pensions payable would be less than the guaranteed minimum.
- (3) Where this paragraph applies, as the case may be—

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(a) a pension at a weekly rate equal to the guaranteed minimum is payable to M for life from the date on which M reaches State pension age; or

(b) pensions, the aggregate weekly rate of which is equal to the guaranteed minimum, are so payable.

(4) If—

(a) on reaching State pension age M is still in employment (whether or not it is scheme employment), and

(b) if it is not scheme employment, M consents to a postponement of M's entitlement under paragraph (3),

paragraph (3) does not apply until M leaves employment.

(5) If M continues in employment for a further 5 years after reaching State pension age and does not then leave employment, M is entitled from the end of that period to so much of the member's pension under this Part as equals M's guaranteed minimum (or, as the case may be, to so much of M's pensions under this Part as together have a weekly rate equal to M's guaranteed minimum), unless M consents to a further postponement of the entitlement.

(6) If paragraph (4) or (5) applies, the amount of the guaranteed minimum to which M is entitled under this regulation is increased in accordance with section 11 of the 1993 Act.

(7) If—

(a) before State pension age M becomes entitled to the immediate payment of a pension, and

(b) M has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of the pension,

the weekly rate of the pension, so far as attributable to that service, must not be less than that guaranteed minimum, multiplied by such factor as is indicated in tables provided by the scheme actuary for a person of M's age and sex at the date on which the pension becomes payable.

(8) This paragraph applies if a person has ceased to be in employment that is contracted-out by reference to this scheme, and either—

(a) all the person's rights to benefits under this scheme, except the person's rights in respect of the person's guaranteed minimum or rights under section 5(2B) of the 1993 Act <sup>M26</sup> (“the person's contracting-out rights”), have been transferred under Part 7 (Transfers), or

(b) the person has no rights to benefits under this scheme apart from the person's contracting-out rights.

(9) If paragraph (8) applies—

(a) from the date on which the person reaches State pension age the person is entitled to a pension payable for life at a weekly rate equal to his guaranteed minimum, if any; and

(b) from the date on which the person reaches pension age the person is entitled to a pension in respect of his rights under section 5(2B) of the 1993 Act,

but a person falling within paragraph (8) is not to be regarded as a pensioner for the purposes of Part 6 (Survivor benefits).

(10) Paragraphs (2) to (9) do not apply to—

(a) a pension that is forfeited—

(i) as a result of a conviction for treason, or

(ii) in a case where an offence within paragraph 12(2)(b) of Schedule 3 (Official Secrets Acts offences) is committed,

(b) a pension that is commuted under regulation 108 (Option for members in serious ill- health to exchange whole pension for lump sum), or

(c) a pension that is commuted under paragraph 6 of Schedule 3 (Commutation of small pensions) where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>M27</sup> are met, but if any other provision of this scheme is inconsistent with this regulation, this regulation prevails.

(11) In this regulation—

- (a) “scheme employment”, in relation to a member, means employment in the employment by virtue of which the member is eligible for membership of this scheme, and
- (b) references to the amount of a pension are to its amount—
  - (i) disregarding any additional pension,
  - (ii) after the subtraction of any amount converted under regulation 76 (Conversion of part of pension into lump sum), and
  - (iii) before the subtraction of any amount allocated under regulation 50 (Election to allocate pension).

#### Marginal Citations

- M25** Section 10 was amended by the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#) Articles 147, 168, Schedule 3 paragraph 20, Schedule 5 Part III; the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#) Article 3(1) and Schedule 1 paragraph 41; the [Proceeds of Crime Act 2002 \(2002 c.29\)](#) Schedule 11 paragraph 23(3)
- M26** Section 5(2B) was inserted by the [Pensions \(Northern Ireland\) Order 1995, \(S.I. 1995/3213 \(N.I.22\)\)](#) Article 133(3) and amended by the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#) Schedule 1 paragraph 38(2)
- M27** Regulation 60 was substituted by Article 28(10) of [S.I. 2006/744](#) and amended by [S.R. 2006 No.223](#), [S.R. 2009 No.365](#) and [S.R. 2010 No.108](#)

## CHAPTER 10

### Pension debit members

#### Reduction in pension debit member's benefits

**110.** The benefits to which a pension debit member is entitled under this Part are subject to reduction pursuant to Article 28 of the 1999 Order.

## PART 6

### Survivor benefits

#### CHAPTER 1

##### Adult survivor

#### Lump sum on death

- 111.** A lump sum is payable in accordance with Schedule 12 in respect of the death of—
- (a) an active member;
  - (b) a deferred member;
  - (c) a pensioner member;

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- (d) a recent leaver (within the meaning of that Schedule);
- (e) a re-employed pensioner (within the meaning of that Schedule);
- (f) a partial retirement pensioner (within the meaning of that Schedule); or
- (g) a pension credit member.

**Modifications etc. (not altering text)**

- C9** Reg. 111(a) applied (1.4.2015) by [The Health and Social Care Pension Scheme \(Transitional and Consequential Provisions\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/122\)](#), regs. 1, **35(2)**

**Surviving adult dependant pension**

**112.**—(1) If an active member, a deferred member or a pensioner member dies leaving a surviving adult dependant, the surviving adult dependant is entitled to a pension payable for life.

(2) In this Part, “surviving adult dependant” means, in relation to a deceased member of former member—

- (a) the surviving spouse,
- (b) the surviving civil partner, or
- <sup>F30</sup>(c) a surviving scheme partner.]

(3) For the rate at which the pension is payable, see regulations 114 to 118.

**Textual Amendments**

- F30** Reg. 112(2)(c) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **60**

**<sup>F31</sup>Surviving scheme partner**

**113.**—(1) A person (P) is the scheme partner of a member if –

- (a) the member and P are living together as if they are husband and wife or civil partners,
- (b) the member and P are not prevented from marrying or entering a civil partnership,
- (c) the member and P are financially interdependent or P is financially dependent on the member, and
- (d) neither the member or P is living with a third person as if they are husband and wife or civil partners.

(2) A person is a surviving scheme partner of a member if the Department is satisfied that for a continuous period of at least two years, ending with the member’s death, the person was the scheme partner of that member.]

**Textual Amendments**

- F31** Reg. 113 substituted (with effect in accordance with reg. 1(8) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **61**

### Amount of pension: survivor of active member

114.—(1) This regulation applies in relation to the surviving adult dependant of an active member.

(2) Paragraph (4) applies in respect of a pension payable during the initial period if the amount found under that paragraph is greater than the amount payable if this paragraph did not apply.

(3) In any other case, the rate of pension is determined by whichever paragraphs (5), (6) and (8) applies to the member.

(4) The rate of pension payable under regulation 112 is equal to—

- (a) if the member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the member was a practitioner or non-GP provider, the rate of the members pensionable earnings during the last complete quarter before the member's death,

plus, in either case, if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), 37.5% of the amount of the additional pension to which the member was entitled at the date of death.

(5) If the member dies with more than 2 years of qualifying service, the annual amount of pension payable under regulation 112 is equal to—

- (a) if the member has not reached the prospective normal pension age, 33.75% of the notional Tier 2 IHP;
- (b) if the member has reached the prospective normal pension age, 33.75% of the notional age retirement pension.

(6) If the member dies with less than 2 years of qualifying service having reached the prospective normal pension age, the annual amount of pension payable under regulation 112 is equal to 33.75% of the notional age retirement pension.

(7) This paragraph applies if—

- (a) the member dies with less than 2 year's qualifying service before reaching the prospective normal pension age; and
- (b) the surviving adult dependant has a guaranteed minimum pension under section 13 of the 1993 Act in relation to benefits in respect of the deceased member under this scheme.

(8) If paragraph (7) applies—

- (a) the annual amount of the pension payable under regulation 112 is equal to the guaranteed minimum pension; but
- (b) sub-paragraph (a) does not apply if the Department's liability to provide a guaranteed minimum pension in respect of the surviving adult dependant is discharged by the payment of a contributions equivalent premium under section 51(2) of the 1993 Act <sup>M28</sup>.

(9) In this regulation—

“the initial period” is the period of six months starting on the day after the member's death;

“the notional Tier 2 IHP” is the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 89(1)(b)—

- (a) disregarding the amount of any additional pension taken into account for the purposes of regulation 91(1)(c); and
- (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), adding 37.5% of that amount;

“the notional age retirement pension” is the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 72 (ignoring any increase under regulation 74)—

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

- (a) disregarding the amount of any additional pension taken into account for the purposes of paragraph (1)(d) of Schedule 11;
- (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), adding 37.5% of that amount;

“non-practitioner employment” is employment other than as a practitioner or a non-GP provider.

#### **Marginal Citations**

**M28** Subsection 51(2) was substituted by Article 138(1) of the Pensions (Northern Ireland) Order 1995 (1995/3213 (N.I. 22)) and amended by the Pensions Act (Northern Ireland) 2008 c.1 (N.I.) Schedule 6 and S.I. 2001/4049

#### **Amount of pension: survivor of pensioner member**

**115.**—(1) This regulation applies in relation to the surviving adult dependant of a pensioner member.

(2) Paragraph (3) applies in respect of a pension payable during the initial period if the amount found under that paragraph is greater than the sum of—

- (a) the amount payable if this paragraph did not apply; and
- (b) the amount of the pensions otherwise payable under Chapter 2.

(3) The rate of pension payable under regulation 112 is equal to the rate of the member's pension in payment at the time of death.

(4) If paragraph (3) does not apply, the rate of pension payable under regulation 112 is equal to the sum of—

- (a) 33.75% of the pension to which the member was entitled at the date of death (disregarding any additional pension); and
- (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), 37.5% of the amount of the additional pension to which the member was entitled at the date of death.

(5) In calculating the amount of a pension pursuant to paragraph (3) the following must be ignored—

- (a) the conversion amount (see paragraph 10 of Schedule 7);
- (b) any reduction in the rate of the member's pension under regulation 102.

(6) In calculating the amount of a pension pursuant to paragraph (4) the following must be ignored—

- (a) the conversion amount (see paragraph 10 of Schedule 7);
- (b) any actuarial adjustment.

(7) The initial period is—

- (a) if the member leaves one or more eligible children who are dependent on the surviving adult dependant, the period of six months starting with the day after the member's death;
- (b) in any other case, the period of three months starting with that day.

(8) For the purposes of paragraph (7), a child born after the member's death is treated as having been born before it.



(9) Paragraph (10) applies if, pursuant to regulation 94(4), a member who was entitled to an ill health pension at Tier 2 ceases to be entitled to that pension and becomes entitled to an ill-health pension at Tier 1 and the member—

- (a) is in further HSC employment and dies before the end of the initial period for the purposes of regulation 94, or
- (b) is in further employment that is not HSC employment and dies before the end of a period of one year starting with the day on which the further employment ceased to be an excluded employment for the purposes of that regulation.

(10) The member's pension referred to in paragraph (3) is the original ill-health pension at Tier 2.

### Amount of pension: deferred members

**116.**—(1) Paragraph (2) applies in the case of a deferred member—

- (a) who left pensionable service less than 12 months before the date of death; and
- (b) whose surviving adult dependant would have been the member's surviving adult dependant if the member had died on the member's last day of pensionable service.

(2) The rate of the pension payable to the surviving adult dependant is equal to 33.75% of the member's notional Tier 2 IHP.

(3) In the case of any other deferred member, the rate of pension payable is 33.75% of the amount of pension the member would have received if, at the date of death, the member had become entitled to a pension under regulation 72—

- (a) disregarding the amount of any additional pension taken into account for the purposes of paragraph 1(d) of Schedule 11; and
- (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), adding 37.5% of that amount.

(4) In paragraph (2), the notional Tier 2 IHP is the amount of pension the member would have received if, on the date the member's pensionable service ceased, the member had become entitled to a pension under regulation 89(1)(b)—

- (a) disregarding the amount of any additional pension taken into account for the purposes regulation 91(1)(c); and
- (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), adding 37.5% of that amount.

(5) In this regulation, “the notional Tier 2 IHP” has the same meaning as in regulation 114(9).

### Recent leavers

**117.**—(1) This regulation applies if—

- (a) a recent leaver dies leaving a surviving spouse or civil partner who has a guaranteed minimum pension under section 13 of the 1993 Act <sup>M29</sup> in relation to benefits in respect of the recent leaver under this scheme; and
- (b) the leaver has died before reaching the normal pension age.

(2) The surviving spouse or civil partner is entitled to a pension payable for life of an amount equal to the recent leaver's guaranteed minimum pension (disregarding any additional pension).

(3) Paragraph (2) does not apply if the Department's liability to provide a guaranteed minimum pension in respect of the surviving spouse or civil partner is discharged by the payment of a contributions equivalent premium under section 51(2) of the 1993 Act.

(4) In this Part, “recent leaver” means a person—

*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

- (a) who left pensionable service less than 12 months before the date of death;
- (b) who is neither qualified for a retirement pension pursuant to regulation 72 nor is a pensioner member because of rights resulting from that employment; and
- (c) in respect of whom no transfer value or refund of contributions has been paid in respect of that employment.

#### **Marginal Citations**

**M29** Section 13 was amended by the [Social Security Contributions \(Transfer of Functions, etc\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#) Article 3(1), Schedule 1 paragraph 42; the [Civil Partnership \(Contracted-Out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order \(Northern Ireland\) 2005 \(S.R. 2005 No.433\)](#) Schedule 1 paragraph 5; the [Child Support, Pensions and Social Security Act \(Northern Ireland\) \(2000 c.4 \(N.I.\)\)](#) sections 52, 67, Schedule 5 Part 1 paragraph 1 and Schedule 3 Part 3(4); the [Pensions \(Northern Ireland\) Order 2005 \(S.R. 2005/255\)](#) and the [Pensions Act \(Northern Ireland\) 2008 \(c.1 \(N.I.\)\)](#)

#### **Re-employed pensioners: adult survivor pensions in initial period**

**118.**—(1) This regulation applies if, apart from this regulation, both regulations 114(4) and 115(3) apply on the death of a member.

(2) If this regulation applies, the rate of pension payable by virtue of these regulations during the initial period (as defined in the respective regulations) is the rate provided in paragraph (3).

(3) For the relevant initial period, the rate of pension payable is equal to the sum of amounts A and B.

(4) Amount A is, in the case of a deceased active member, the rate of the deceased's pensionable earnings at the time of death.

(5) Amount B is the rate of the deceased member's pension payable at the time of death after taking account of—

- (a) the conversion amount (see paragraph 10 of Schedule 7);
- (b) any reduction in the rate of the member's pension under regulation 102.

(6) Paragraph (4) does not apply if—

- (a) the rate of the pension payable to the surviving adult in respect of later service; and
- (b) any children's pension that would otherwise be payable in respect of later service under Chapter 2,

would be greater.

#### **Polygamous marriage**

**119.**—(1) This regulation applies if—

- (a) a member dies without leaving a surviving adult dependant;
- (b) at the date of death, the member was married to one or more persons under a law which permits polygamy; and
- (c) had the member left a surviving adult dependant any benefit would have been payable to that dependant as such.

(2) The benefit mentioned in paragraph (1)(c) is payable—

- (a) if there is only one such person mentioned in paragraph (1)(b), to that person;

- (b) if there are two or more such persons, to those persons in equal shares.
- (3) Such a person's share of a pension does not increase on the death of any other such person.

## CHAPTER 2

### Child survivor

#### Surviving child's pension

- 120.**—(1) This regulation applies if—
- (a) a member or recent leaver dies leaving an eligible child, or
  - (b) an eligible child of the member or recent leaver is born after the date of death.
- (2) A pension is payable in respect of an eligible child.
- (3) A pension ceases to be payable if the child ceases to be an eligible child.
- (4) If there are two or more eligible children, the share of the pension to which each of them is entitled is determined in accordance with guidance published by the scheme manager for the purposes of this paragraph.
- (5) An amount payable to an eligible child is payable—
- (a) to the eligible child, or
  - (b) if the scheme manager so decides, to another person for the eligible child.
- (6) Paragraph (7) applies to an eligible child if—
- (a) at the date of death the child is dependent on an adult; and
  - (b) the adult is entitled to a pension under regulation 112.
- (7) For any period in which the surviving adult's pension is payable at the rate specified in regulation 115(3) or 118(5), the eligible child is entitled to payment only of so much of the pension as is attributable to an additional pension.
- (8) Paragraph (9) applies if an eligible child—
- (a) is incapable for any period of earning a living because of a physical or mental infirmity, and
  - (b) for a period exceeding one month is maintained out of money appropriated by the Northern Ireland Assembly in a hospital or other institution.
- (9) No pension is payable in respect of the child for any part of the period after the first month.
- (10) If, apart from this paragraph, multiple pensions would be payable in respect of a person as an eligible child of three or more persons each of whom was a deceased member or recent leaver—
- (a) the entitlements to the pensions is treated as entitlement on the death of only two of those persons; and
  - (b) the amount payable is equal to the sum of the two pensions which are the highest.

#### Eligible child

- 121.**—(1) A person is an eligible child in relation to a deceased member or recent leaver (DMR) if the child—
- (a) meets the relationship condition;
  - (b) meets the age or health dependency condition; and
  - (c) meets the birth and dependency condition.
- (2) A person meets the relationship condition if the person is any of the following—
- (a) a natural child or grandchild of the DMR;

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- (b) an adopted child of the DMR who was adopted while the DMR was an active member;
  - (c) a step-child of the DMR whose natural or adoptive parent is the DMR's surviving spouse or civil partner from a marriage entered into or a civil partnership formed, while the DMR was an active member;
  - (d) a person whose natural or adoptive parent is the DMR's surviving [<sup>F32</sup>scheme partner] if, at the time the DMR ceased to be an active member, the DMR was living with the partner as mentioned in [<sup>F33</sup>regulation 113(1)(a) and (d)];
  - (e) a brother or sister, or child of a brother or sister, of—
    - (i) the DMR, or
    - (ii) the DMR's spouse, civil partner or [<sup>F34</sup>surviving scheme partner].
  - (f) a half-brother or half-sister, or child of a half-brother or half-sister of—
    - (i) the DMR member, or
    - (ii) the DMR member's spouse, civil partner or [<sup>F35</sup>surviving scheme partner];
  - (g) a person who the scheme manager believes the DMR intended, at the time the DMR ceased to be an active member, to adopt;
  - (h) a person who at the time the DMR ceased to be an active member had been dependent on the DMR for—
    - (i) two years, or
    - (ii) if less, half the person's life.
- (3) A person meets the age or health dependency condition if—
- (a) the person has not attained the age of 23; or
  - (b) the scheme manager believes—
    - (i) that the person was financially dependent on the DMR at the date of death because the person was incapable of earning a living in consequence of physical or mental impairment; and
    - (ii) that the person continues to be incapable of earning a living in consequence of the impairment.
- (4) A person meets the birth and dependency condition if—
- (a) the person was born before the DMR ceased to be an active member; and
    - (i) was dependent on the DMR at the date of death; and
    - (ii) if the date of death was after the DMR ceased to be an active member, was dependent on the DMR at the time the DMR ceased to be an active member; or
  - (b) the person was born not more than one year after the DMR ceased to be an active member and—
    - (i) was dependent on the DMR both at birth and at the date of death, or
    - (ii) if the person was born after the DMR's death, would have been dependent on the DMR had the DMR not died before the person's birth.

#### Textual Amendments

- F32** Words in [reg. 121\(2\)\(d\)](#) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\)](#), regs. 1(2), **62(2)(a)**

- F33** Words in reg. 121(2)(d) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/196), regs. 1(2), **62(2)(b)**
- F34** Words in reg. 121(2)(e)(ii) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/196), regs. 1(2), **62(3)**
- F35** Words in reg. 121(2)(f)(ii) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/196), regs. 1(2), **62(4)**

### Amount of child pension: deceased active member

**122.**—(1) This regulation applies to determine the annual amount of pension payable under regulation 120 if, at the date of death, the deceased was—

- (a) an active member of this scheme; and
  - (b) not also a pensioner member of this scheme.
- (2) The amount, unless paragraph (6) or (7) applies is the appropriate fraction of—
- (a) the basic death pension; plus
  - (b) if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), 75% of the amount of additional pension.
- (3) The basic death pension is found by applying the following formula:

$$\left( FP + \frac{A \times B}{C} - A \right) \times 67.5\%$$

where—

FP is the amount of full retirement earned pension which, if at the date of death the deceased had become entitled to an ill-health pension, would be specified in the pensioner member's account; A is the aggregate of the amounts of all of the member's pensions from pensionable service on the day after the member's last day of pensionable service (L+1)—

- (i) disregarding any additional pension; and
- (ii) including any increases applied by virtue of the Pensions (Increase) Act (Northern Ireland) 1971<sup>M30</sup>;

B is the period counted in days which is the greater of—

- (i) the aggregate of the total period of pensionable service counted in days over which the pensions referred to in A were accrued and 50% of the length of the period starting on L+1 and ending on the day the deceased would have reached prospective normal pension age; and
- (ii) 10 years;

C is the total period of pensionable service counted in days over which the pensions aggregated to find A were accrued,

and for the purposes of B and C, any part of a day is taken to be a whole day.

(4) The appropriate fraction is shown in Column 3 of the following table against the description of circumstances in Columns 1 and 2 to which it relates.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
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*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

<i>Surviving adult: pension entitlement and relationship to eligible child</i>	<i>Number of eligible children</i>	<i>Appropriate fraction</i>
A. There is a surviving parent or a surviving spouse or civil partner of a parent and a surviving adult's pension is payable under regulation 112	One eligible child	1/4
	Two or more eligible children	1/2
B. There is a surviving parent or a surviving spouse or civil partner of a parent but no pension is payable under regulation 112	One eligible child	1/3
	Two or more eligible children	2/3
C. There is no surviving parent or spouse or civil partner of parent;	One eligible child	1/3
	Two or more eligible children	2/3

(5) Paragraph (6) applies if—

- (a) a surviving adult dependent's pension is payable under regulation 112; and
- (b) there is a eligible child who is not dependent on the person entitled to the pension.

(6) The rate of pension payable in respect of the child for the first three months after the deceased's death is equal to—

- (a) if the deceased member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the deceased member was a practitioner or non-GP provider, the average rate of the member's pensionable earnings during the last complete quarter before the member's death.

(7) Where entry B or C of column 1 of the table in paragraph (4) applies, the rate of the pension in respect of a eligible child for the period of six months starting with the deceased's death is equal to—

- (a) if the deceased member was in non-practitioner employment, the rate of the member's pensionable earnings at the time of death;
- (b) if the deceased member was a practitioner or non-GP provider, the average rate of the member's pensionable earnings during the last complete quarter before the member's death.

(8) Non-practitioner employment is employment other than as a practitioner or non-GP provider.

#### **Marginal Citations**

M30 1971 c.35 (N.I.)

#### **Amount of child pension: deceased pensioner member**

**123.**—(1) This regulation determines the annual amount of pension payable under regulation 120 if, at the date of death, the deceased—

- (a) was a pensioner member of this scheme; and
- (b) was not also an active member.

- (2) The amount is the appropriate fraction of—
- the basic death pension; plus
  - if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), 75% of the amount of the additional pension.
- (3) The basic death pension is the greater of—
- 67.5% of the deceased's annual pension (disregarding any additional pension) ;and
  - the amount found by applying the following formula:

$$\left( \frac{A}{C} \times 3650 \right) \times 67.5\%$$

where—

A is the deceased's annual pension;

C is the total period of pensionable service counted in days over which the pensions aggregated to find A was accrued;

and for the purposes of C, any part of a day is taken to be a whole day.

- (4) The appropriate fraction is as determined by regulation 122(4).
- (5) Paragraph (6) applies if—
- a surviving adult dependent's pension is payable under regulation 112; and
  - there is a eligible child who is not dependent on the person entitled to the pension.
- (6) The rate of pension payable in respect of the child for the first three months after the deceased's death is equal to the rate of the member's pension at the date of death.
- (7) Where entry B or C of column 1 of the table in paragraph (4) of regulation 122 applies, the rate of the pension in respect of a eligible child for the period of six months starting with the deceased's death is equal to the greater of—
- the rate of the member's pension at the date of death disregarding any reduction under Chapter 7 of Part 5 (Abatement); and
  - the amount of child pension that would otherwise be payable under these Regulations.
- (8) A reference to the deceased's pension for the purposes of paragraph (3)(a) and (b) is a reference to the amount the deceased's pension would have been if it was calculated—
- without subtracting the conversion amount (see paragraph 10 of Schedule 7); and
  - in the case of a pension that was payable to the deceased pursuant to regulation 78, 81 or 83, without the reduction under paragraph 6(1)(b) or 7(1)(b) of Schedule 11.

#### **Amount of child pension: deceased deferred member**

**124.**—(1) This regulation determines the annual amount of pension payable under regulation 120 if, at the date of death, the deceased—

- was a deferred member of this scheme; and
  - was not also an active member or a pensioner member.
- (2) The amount is the appropriate fraction of—
- the basic death pension; plus
  - if the member had made an additional pension election under regulation 54(3)(b) (self and survivor), 75% of the amount of the additional pension.

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- (3) The basic death pension is—
- (a) if the date of death is before the end of the period 12 months starting on the day after the deceased ceased to be an active member, the amount found by applying the formula in regulation 122(3);
  - (b) in any other case, the greater of—
    - (i) 67.5% of the pension which would have been payable if, at the date of death, the deceased had become entitled to a pension under regulation 72, but in calculating that pension under paragraph 1 of Schedule 11 sub-paragraph (c) must be ignored; and
    - (ii) the amount found by applying the formula in regulation 123(3).
- (4) The appropriate fraction is shown in Column 3 of the following table against the description of circumstances in Columns 1 and 2 to which it relates.

**Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Surviving adult: pension entitlement and relationship to eligible child</i>	<i>Number of eligible children</i>	<i>Appropriate fraction</i>
A. There is a surviving parent or a surviving spouse or civil partner of a parent and a surviving adult's pension is payable under regulation 112	One eligible child	1/4
	Two or more eligible children	1/2
B. In any other case	One eligible child	1/3
	Two or more eligible children	2/3

**Amount of child pension: recent leavers**

**125.**—(1) This regulation determines the annual amount of pension payable under regulation 120 if, at the date of death, the deceased was a recent leaver (within the meaning of regulation 117(4)).

- (2) The amount is the appropriate fraction of the basic death pension.
- (3) The basic death pension is the amount found by applying the formula in regulation 122(3).
- (4) The appropriate fraction is as determined by regulation 124(4).

**Power to increase pension for children not maintained by surviving parent etc.**

**126.**—(1) This regulation applies if—

- (a) a member dies leaving a eligible child;
  - (b) there is a surviving parent of the eligible child or a surviving spouse or civil partner of a parent of the dependent child; and
  - (c) the eligible child is not maintained by the surviving parent, spouse or partner.
- (2) The scheme manager may increase the amount of the pension that would otherwise be payable under this Chapter.
- (3) The increased amount must not exceed the amount that would have been payable under this Chapter if there had been no such surviving parent or spouse or partner of a parent.



### Amount of child pension: re-employed pensioners

127.—(1) This regulation applies to determine the annual amount of pension payable under regulation 120 if, at the date of death, the deceased was—

- (a) an active member of this scheme; and
- (b) a pensioner member of this scheme.

(2) If there is no surviving adult, in relation to the period of 6 months starting on the day after the date of death, the rate of pension is equal to the sum of—

- (a) the rate of the deceased's pensionable earnings at the date of death; and
- (b) the rate of the pension being received by the deceased at the date of death.

(3) In paragraph (2), rate of pensionable earnings for a member who was a practitioner or non-GP provider is the rate during the last complete quarter before the member's death.

(4) Apart from paragraph (2), the amount is the appropriate fraction of—

- (a) if, at the date of death, the deceased has not reached normal pension age, the amount found by applying the formula in regulation 122(3);
- (b) in any other case, 67.5% of the pension to which the deceased would have been entitled under regulation 73 (see paragraph 1 of Schedule 11).

(5) The appropriate fraction is as determined by regulation 122(4).

(6) Paragraph (7) applies if a eligible child was dependent both—

- (a) at the time when the pensionable service in respect of which the pension is payable ceased; and
- (b) at the date of death.

(7) The amount is the sum of—

- (a) the amount payable under regulation 122 in respect of the deceased's new employment—
  - (i) if paragraph (1)(b) of that regulation did not apply; and
  - (ii) ignoring paragraph (b) of element B in the formula in paragraph (3) of that regulation; and
- (b) the amount found under regulation 123(3)(a) in respect of the deceased's old employment if paragraph (1)(b) of that regulation did not apply.

(8) For the purposes of paragraph (7)—

- (a) if the aggregate of the periods of pensionable service taken into account in determining the amounts under sub-paragraphs (a) and (b) is less than 10 years, the period to be taken into account for the purposes of paragraph (a) must be increased by a period equal to the length of the difference;
- (b) “new employment” and “old employment” must be construed in accordance with Chapter 7 of Part 5.

### Provisional awards of eligible child's pensions: later adjustments

128.—(1) This regulation applies where—

- (a) an active member, deferred member, recent leaver or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Chapter on the basis that they were eligible children as at the date of the member's death and that there were then no other eligible children; and

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(c) it later appears that—

- (i) a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
- (ii) on that date a further person was an eligible child; or
- (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters referred to in paragraph (1)(c), as applicable.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

## CHAPTER 3

### General

#### **Suspension and recovery of pensions paid under this Part**

**129.**—(1) This regulation applies if—

- (a) on a member's death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid knowingly made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) cease paying the pension; and
- (b) recover any payment made under the award.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

## **PART 7**

### Transfers

#### CHAPTER 1

##### Preliminary

#### **Application of Part**

**130.**—(1) This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of the 1993 Act (Transfer values); and
- (b) is without prejudice to that Chapter or Chapter 5 of that Part (Early leavers: cash transfer sums and contribution refunds).

(2) This Part applies in the case of a transfer to which the club transfer arrangements apply as it applies in other cases, except to the extent that—

- (a) a provision of this Part otherwise requires, or
- (b) the arrangements themselves make different provision.

## Interpretation of Part

### 131. In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 93 of the 1993 Act <sup>M31</sup>;

“club scheme” means a registered occupational pension scheme (other than a connected scheme) that has agreed to make and receive transfer value payments under the club transfer arrangements;

“club transfer” means a transfer value payment made pursuant to club transfer arrangements: and “non-club transfer” must be construed accordingly;

“club transfer arrangements” means arrangements approved by the scheme manager as providing reciprocal arrangements between this scheme and other registered occupational pension schemes for making and receiving transfer value payments;

“club transfer earned pension” means the pension attributable to the receipt of a club transfer value;

“club transfer value”, in relation to an amount of accrued earned pension under this scheme or under another club scheme, means an amount calculated by the scheme manager—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose and that are in use on the date used for the calculation.

“guarantee date” has the meaning given by regulation 134(3);

“guaranteed cash equivalent”, in relation to accrued rights to benefits under this scheme, means the cash equivalent of those accrued rights as at the guarantee date, as specified in a statement of entitlement;

“personal pension scheme” means a personal pension scheme which—

- (a) in the case of such a scheme established on, or after, 6th April 2006 is a registered pension scheme for the purposes of the 2004 Act and which the scheme manager agrees to recognise as a transferring scheme for the purposes of Part 7;
- (b) in the case of a scheme established before that date, was—
  - (i) approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988 (personal pension schemes) <sup>M32</sup>; and
  - (ii) on the 6th April 2006 became a registered pension scheme for the purposes of the 2004 Act.

“registered occupational pension scheme” means registered under Chapter 2 of Part 4 of the 2004 Act <sup>M33</sup>;

“statement of entitlement”, in relation to a member's accrued rights to benefits under this scheme, means a statement by the scheme manager of the amount of the cash equivalent of those rights as at the guarantee date;

“transfer value”, in relation to accrued rights other than accrued earned pension which is the subject of a club transfer means—

- (a) for accrued rights to benefits under this scheme, an amount equal to the guaranteed cash equivalent of those accrued rights; and
- (b) for accrued rights under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and

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(ii) specified in a statement of accrued rights provided by the scheme manager of that scheme;

“transfer value payment” means—

- (a) the payment of a transfer value or club transfer value under this Part; or
- (b) the payment of a transfer value under Chapter 4 of Part 4 of the 1993 Act.

#### **Marginal Citations**

- M31** Section 93 was amended by the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#) Article 165 and Schedule 4 paragraph 6; the [Child Support, Pensions and Social Security Act \(Northern Ireland\) 2000 \(c.4 \(N.I.\)\)](#) section 52 and Schedule 5 paragraph 5(1)
- M32** 1988 c.1. Chapter 4 was repealed by sections 1322 and 1326 of, and paragraphs 1 and 25 of Schedule 1 and Part 1 of Schedule 3 to, the [Corporation Tax Act 2009 \(c.4\)](#). For transitional provisions and savings see [section 1325\(1\)](#) of and Parts 1 and 2 of Schedule 2 to, that Act
- M33** Chapter 2 of Part 4 deals with registration of pension schemes for tax purposes

## CHAPTER 2

### Transfers values

#### SECTION 1

#### *Application of Chapter*

#### **Application of Chapter**

**132.** This Chapter applies to the payment and receipt of transfer values.

#### SECTION 2

#### *Transfers out*

#### **Right to transfer value payment**

**133.—(1)** This Section applies to a member (M) unless M is—

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

(2) If Chapter 4 of Part 4 of the 1993 Act (Transfer rights) applies to M (see section 89(1)(a) of the Act)<sup>M34</sup>, M 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 M under this scheme.

(3) If Chapter 5 of that Part applies to M (see section 97AA of that Act<sup>M35</sup>), M is entitled to a cash transfer sum or a contribution refund in accordance with that Chapter.

(4) In any other case, M is entitled to require payment as mentioned in paragraph (2) as if the rights had accrued to or in respect of M by reference to the pensionable service M is entitled to count under this scheme (and references to M's accrued rights or benefits are to be read accordingly).

#### Marginal Citations

- M34** Section 89(1)(a) was substituted by Article 148(2) of the [Pensions \(Northern Ireland\) Order 1995 \(S.I. 1995/3213 \(N.I. 22\)\)](#)
- M35** Section 97AA was inserted by Article 241 of the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/225 \(N.I.11\)\)](#)

#### Application for statement of entitlement

**134.**—(1) A member (M) who requires a transfer value payment to be made must apply in writing to the scheme manager for a statement of entitlement.

(2) M may withdraw the application by notice in writing at any time before the statement of entitlement is provided.

(3) The guarantee date is a date that—

- (a) is within the required period;
- (b) is chosen by the scheme manager;
- (c) is specified in the statement of entitlement; and

[<sup>F36</sup>(d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.]

(4) In paragraph (3), the required period is—

- (a) the period of 3 months beginning with the date of M's application for a statement of entitlement, or
- (b) such longer period (not exceeding 6 months) beginning with that date as may reasonably be required if, for reasons beyond the control of the scheme manager, the information required to calculate the cash equivalent cannot be obtained.

(5) For the purposes of paragraph (3)(d), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday must be ignored.

#### Textual Amendments

- F36** Reg. 134(3)(d) substituted (with effect in accordance with reg. 1(8) of the amending Rule) by [The Health and Social Care Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/196\), regs. 1\(2\), 63](#)

#### Application for transfer value payment

**135.**—(1) A member (M) who has applied for and received a statement of entitlement may apply in writing to the scheme manager for a transfer value payment to be made.

(2) The application must be made before the end of the period of 3 months starting with the guarantee date.

(3) On making the application M becomes entitled to payment of an amount equal, or amounts equal in aggregate, to—

- (a) the amount specified in the statement of entitlement, or
- (b) that amount subject to any increase specified in regulation 136(2).

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

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(5) The application—

- (a) must specify the pension scheme or other arrangement to which the payment should be applied; and
- (b) must meet such other conditions as are required by the scheme manager.

(6) The application may be withdrawn by notice in writing to the scheme manager unless, before the notice is given, 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.

### **Transfer value payments: time limits**

**136.**—(1) The guaranteed cash equivalent transfer value payment must be made not later than—

- (a) the end of the period of 6 months after the guarantee date, or
- (b) if earlier, the date on which the member attains normal pension age.

(2) If the payment is made after the time specified in paragraph (1)(a), the amount of the payment must be increased by the relevant amount.

(3) The relevant amount is—

- (a) if the amount specified in the statement of entitlement (SEA) is less than the amount it would have been if the guarantee date had been the date on which the payment is made, the amount of the difference;
- (b) if—
  - (i) the SEA is greater than the amount it would have been if the guarantee date had been the date on which the payment is made; and
  - (ii) there was no reasonable excuse for the delay in payment,

interest on the SEA calculated on a daily basis starting on the guarantee date and ending on the date the payment is made at an annual rate of 1% above the base rate.

(4) Paragraph (5) applies if—

- (a) disciplinary or court proceedings against M are started before the end of the period of 12 months starting with the date on which M leaves the employment which qualified M for being a member of this scheme; and
- (b) it appears to the scheme manager that the proceedings may result in all or part of M's benefits being forfeited under paragraph 12 of Schedule 3.

(5) The scheme manager may defer making a payment under this Section until the end of the period of 3 months starting on the day the proceedings (including any proceedings on appeal) are finally determined.

(6) If a direction is given under paragraph 12 of Schedule 3 for the forfeiture of M's benefits, this regulation applies as if the SEA were reduced by an amount equal to the value of the benefits forfeited, as determined by the scheme actuary.

(7) Paragraph (8) or (9) applies if M is entitled to require payment of a transfer value by virtue of regulation 72.

(8) If M's application specifies that the guaranteed cash equivalent transfer value payment is made to a registered occupational pension scheme or a registered personal pension scheme, the application may be made only if—

- (a) M became a member of the other scheme before the end of the period of 12 months starting on the day after the leaving date; and
- (b) the application is made not later than—

- (i) the end of the period of 12 months starting on the day M became a member of the other scheme, or
- (ii) if M became a member of the other scheme on or before the leaving date, the end of the period of 12 months starting on the day after the leaving date.

(9) If paragraph (8) does not apply, M's application may only be made before the end of the period of 12 months starting on the day after the leaving date.

(10) In paragraphs (8) and (9), the leaving date is the day on which M ceased to be in the pensionable service in which the rights accrued.

(11) M may require the scheme manager to make a club transfer value payment only during the period of 12 months starting with the day on which M becomes eligible to be an active member of the scheme to which the payment is to be made.

### How transfer value payments may be applied

**137.**—(1) If Chapter 4 of Part 4 of the 1993 Act applies to a member (M), (M) may require the scheme manager to apply the guaranteed cash equivalent value payment only in one or more of the ways permitted under section 91 of the 1993 Act <sup>M36</sup>.

(2) In any other case, M may require the scheme manager to apply the guaranteed cash equivalent transfer value payment only in one of the ways permitted under section 97AE of the 1993 Act <sup>M37</sup>.

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

(4) Benefits attributable to—

- (a) M's accrued rights to a guaranteed minimum pension, or
- (b) M's accrued rights attributable to service in a contracted-out employment (within the meaning of section 4 of the 1993 Act <sup>M38</sup>) on or after 6th April 1997,

may be excluded from the guaranteed cash equivalent payment if section 92(2) of the 1993 Act <sup>M39</sup> applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the members other rights).

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

- (a) a pension scheme (other than a connected scheme) that is registered under Chapter 2 of Part 4 of the 2004 Act, 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) <sup>M40</sup>.

#### Marginal Citations

**M36** Section 91 was amended by S.I. 1995/3213 (N.I. 22) Schedule 4 and S.I. 2001/3649 Article 133

**M37** Section 97AE was inserted by Article 241 of the Pension (Northern Ireland) Order 2005 (2005/255 (N.I. 1))

**M38** Section 4 was amended by the Pensions Act (Northern Ireland) 2008 (2008 c.1 (N.I.)) Schedule 4

**M39** Section 92(2) was amended by the Pensions (Northern Ireland) order 1995 (S.I. 1995/3213) Article 147 and Schedule 3 paragraph 53(a); the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Articles 17, 76, Schedule 2 paragraph 2(2)(b) and Schedule 10 Part 1; the Pensions Act (Northern Ireland) 2008 (2008 c.1 (N.I.)) sections 13, 19, Schedule 4 paragraph 29 and Schedule 6 Part 6 and the Pensions (2008 No.2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012 No.124) Article 4(14)(a)

**M40** Section 169(2) has been amended by section 53(2) and (3) of the Finance Act 2013 (c.29)

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### Calculating amounts of transfer value or club transfer value

**138.**—(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the scheme manager in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996<sup>M41</sup>.

(2) In determining the factors to be used in the calculation of the member's (M's) guaranteed cash equivalent, the scheme manager must take account of—

- (a) M's prospective normal pension age;
- (b) advice from the scheme actuary.

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

(4) In paragraph (3) “minimum transfer value” means the sum of—

- (a) any transfer value payments that have been made to this scheme in respect of M as a result of which M is entitled to count any pensionable service under this scheme by reference to which the accrued rights subject to the transfer are calculated; and
- (b) any contributions paid by M under Part 4 as a result of which M is entitled to count such service.

(5) If the transfer is a club transfer, the amount of the transfer value payment is calculated in accordance with the club transfer arrangements rather than paragraph (1).

(6) If a club transfer value is paid later than 6 months after the guarantee date, the amount of the club transfer value as specified in the statement of entitlement must be increased if necessary so that it is equal to the amount it would have been if the guarantee date had been the date on which the payment is made.

#### Marginal Citations

**M41** S.R. 1996 No.619 as amended by S.R. 1997 No.160; S.R. 2003 No.337; S.R. 2005 Nos.20, 114, 171 and 568; S.I. 2006/744; S.R. 2007 No.64; S.R. 2009 No.115; S.R. 2012 Nos.113 and 124; S.R. 2013 No.72 and S.R. 2014 No.79

### Effect of transfer-out

**139.** If a transfer value payment is made under this Section in respect of a person's rights under the scheme, those rights are extinguished.

## SECTION 3

### Transfers in

#### Right to apply for acceptance transfer value payment

**140.**—(1) An active member (M) may apply for a transfer value payment to be accepted from—

- (a) an appropriate registered occupational pension scheme;
- (b) a registered personal pension scheme;
- (c) a registered buy-out policy;
- (d) a corresponding scheme.

(2) Paragraph (1) does not apply to M's rights—



- (a) under a free-standing AVC scheme to which paragraph (3) applies, or
  - (b) that are directly attributable to a pension credit.
- (3) This paragraph applies to—
- (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 <sup>M42</sup> (free-standing AVC schemes), and
    - (ii) became a registered scheme for the purposes of the 2004 Act 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.
- (4) An appropriate registered occupational pension scheme is a registered occupational pension scheme which is not—
- (a) a connected scheme,
  - (b) a corresponding 1995 scheme, or
  - (c) a corresponding 2008 scheme.
- (5) In paragraph (1), “buy-out policy” means a policy of insurance or annuity contract that is appropriate for the purposes of section 15 of the 1993 Act (extinguishment of liability of scheme for pensions secured by insurance policies or annuity contracts) <sup>M43</sup>.
- (6) In paragraph (4)—
- “a corresponding 1995 scheme” is a superannuation scheme provided under section 10 of the Superannuation Act 1972 <sup>M44</sup> and having effect in England and Wales or Scotland, the provisions of which the Department has determined correspond to the provisions of 1995 Regulations;
- “a corresponding 2008 scheme” is a superannuation scheme provided under section 10 of the Superannuation Act 1972 and having effect in England and Wales or Scotland, the provisions of which the Department has determined correspond to the provisions of the 2008 Regulations.

#### Marginal Citations

- M42** Section 591 was repealed by section 326 of, and Part 3 of Schedule 42 to, the [Finance Act 2004 \(c.12\)](#) on 6 April 2006
- M43** 1993 c.49 (N.I.). Section 15 was amended by [S.I. 2001/3649](#); [S.R. 2005 No.433](#) and [S.R. 2007 No.457](#)
- M44** 1972 c.11. Section 10 has been amended by sections 4(2) and 8(5) and (6) of the [Pensions \(Miscellaneous Provisions\) Act 1990 \(c.7\)](#), [section 190](#) of, and paragraph 7 of Schedule 8 to, the [Pension Schemes Act 1993 \(c.48\)](#), [section 27](#) of, and paragraphs 6 and 10 of Schedule 8 to, the [Public Service Pensions Act 2013 \(c.25\)](#) and article 108 of [S.I. 2001/3649](#). Functions under section 10 in relation to Scotland were transferred to the Scottish Ministers by article 2 and Schedule 1 of [S.I. 1999/1750](#).

#### Application procedure

- 141.**—(1) An application under regulation 140—
- (a) must be 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;
  - (c) must be made before—

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- (i) the end of the period of one year starting on the day the member (M) becomes eligible to be an active member of this scheme; and
- (ii) M attains normal pension age;
- (d) if the scheme manager so requires, may be made only if M has requested a statement of entitlement; and
- (e) must meet such other conditions as the scheme manager requires.
- (2) If the transfer is not a club transfer, a statement of entitlement—
  - (a) is a statement of the increase to pensionable earnings and the service M will be entitled to count as a result of the transfer if the payment is accepted;
  - (b) must specify—
    - (i) the period within which the payment is to be accepted by the scheme manager; and
    - (ii) the amount of increase to pensionable earnings calculated in accordance with guidance and tables provided by the scheme actuary for the purpose.
- (3) If the transfer is a club transfer, a statement of entitlement—
  - (a) is a statement of the club transfer earned pension; and
  - (b) must specify—
    - (i) the period within which the transfer is to be accepted by the scheme manager; and
    - (ii) the basis on which the club transfer earned pension will be revalued while M is in pensionable service under this scheme.

#### **Acceptance of transfer value payment**

- 142.**—(1) The scheme manager may accept an application under regulation 140 from a member (M) unless—
- (a) such conditions as the scheme manager requires are not met, or
  - (b) paragraph (5) applies.
- (2) If the transfer is a non-club transfer and the scheme manager accepts the payment, M is entitled—
- (a) for the purposes of calculating benefits payable to, or in respect of, M under this scheme, to an increase in M's pensionable earnings calculated in accordance with regulation 143; and
  - (b) to be credited with the relevant period of pensionable service in this scheme.
- (3) If the payment is a club transfer M is entitled—
- (a) to the amount of club transfer earned pension specified in the statement of entitlement, and
  - (b) to be credited with the relevant period of pensionable service in this scheme.
- (4) The relevant period is equal to the period of employment that qualified M for the rights in respect of which the transfer is being made.
- (5) This paragraph applies to a non-club transfer if—
- (a) it would be applied in whole or in part in respect of M's or M'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.

### Calculation of increase to pensionable earnings

**143.**—(1) The increase in pensionable earnings that the member (M) is entitled to count under regulation 142 as a result of the transfer is calculated—

- (a) in accordance with guidance and tables provided by the scheme actuary for the purpose; and
- (b) by reference to any relevant factors as at the date the transfer payment is received by the scheme manager.

(2) The benefits in respect of the transfer payment must be calculated by increasing M's pensionable earnings for—

- (a) the scheme year in which M joined this scheme, or
- (b) if the transfer payment is received more than 12 months after the day on which M joined this scheme (the starting day), the scheme year in which the payment is received.

(3) Paragraph (2)(b) does not apply if—

- (a) a written statement estimating the increase in pensionable earnings that M would be entitled to count as a result of the transfer was given to M by the scheme manager during the period of 3 months ending 12 months after the starting date; and
- (b) the transfer payment is received by the scheme manager before the end of the period of 3 months after the date of the statement.

(4) If the transfer is a club transfer, the club transfer earned pension M is entitled to count is calculated in accordance with the club transfer arrangements.

(5) If the transfer value statement is accepted from a corresponding scheme, the increase in pensionable earnings M is entitled to count is the increase M would be entitled to count if—

- (a) M's employment to which that scheme applied were health service employment in respect of which M was a member of this scheme; and
- (b) M's contributions to that scheme were contributions to this scheme.

### Transfer from the 1995 or 2008 Section

**144.**—(1) This regulation applies to an active member of this scheme (M) who is entitled to require a cash equivalent of M's rights to be used to acquire rights in this scheme pursuant to —

- (a) regulation 59A of the 1995 Section<sup>M45</sup>, or
- (b) regulation 108B or 235B<sup>M46</sup> of the 2008 Section.

(2) M may apply to the scheme manager to convert the cash equivalent value into rights under this scheme.

(3) An application under paragraph (2)—

- (a) must be in writing in the form provided by the scheme manager for the purpose;
- (b) must be made before the end of the period starting with the guarantee date within the meaning of whichever of regulation 59A of the 1995 section, 108B or 235B of the 2008 section applies;
- (c) may be made only if M has first been provided with a statement of the pensionable service and increase in pensionable earnings M will be entitled to count under this scheme if the application is accepted;
- (d) must meet such other conditions as the scheme manager requires;
- (e) is irrevocable.

(4) The statement mentioned in paragraph (3)(c) must inform M of—

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- (a) the amount of the increase in pensionable earnings that will count under this scheme for the purpose of calculating benefits payable to or in respect M;
  - (b) the pensionable service that will count under this scheme to determine whether M has 2 years qualifying service for the purposes of regulation 71.
- (5) The amount of the increase in pensionable earnings must be calculated in accordance with guidance, tables and other relevant factors provided by the scheme actuary for the purpose.
- (6) The pensionable service is equal to the period of employment that qualifies M to the entitlement mentioned in paragraph (1).
- (7) If the scheme manager accepts an application under paragraph (2), for the purposes of this scheme—
- (a) the period of pensionable service mentioned in paragraph (4)(b) applies for the purpose mentioned in that paragraph;
  - (b) the amount of the increase in pensionable earnings is credited to M's active member's account in the scheme year in which M's application under paragraph (2) is received.
- (8) For the purposes of this regulation, in regulation 140(4), sub-paragraph (a) must be ignored.

#### **Marginal Citations**

**M45** Regulation 59A was inserted by S.R. 2015 No.121

**M46** Regulations 108B and 235B were inserted by S.R. 2015 No.121

#### **Transfers from corresponding 1995 and 2008 schemes**

- 145.**—(1) This regulation applies to an active member of this scheme (M) if—
- (a) M was formerly a member of a corresponding 1995 scheme or a corresponding 2008 scheme; and
  - (b) the scheme manager considers that on the notional joining date M would be entitled to require a cash equivalent of M's rights in that scheme to be used to acquire rights in a corresponding health service scheme if M became a member of the corresponding health service scheme.
- (2) M may apply to the scheme manager to convert the cash equivalent value into rights under this scheme.
- (3) An application under paragraph (2) must be in such form, provide such information and be made at such time as the scheme manager requires.
- (4) The notional joining date in relation to a relevant corresponding scheme is the date M became a member of this scheme.
- (5) References to a corresponding 1995 scheme and a corresponding 2008 scheme must be construed in accordance with regulation 140(6).

#### *SECTION 4*

#### *Bulk transfers*

#### **Bulk transfers out**

- 146.**—(1) This regulation applies if—
- (a) the employment of one or more active members (the transferring employees) is transferred without consent to a new employer;

- (b) on the transfer the transferring employees cease to be eligible to be members of this scheme;
  - (c) after the 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 135; but
  - (b) is to be such amount as the Department, after consulting the scheme actuary, determines to be appropriate in accordance with the special terms.
- (3) This Part has effect with such modifications as are necessary to give effect to those terms.
- (4) If the transfer is directly or indirectly attributable to an enactment, this Part has effect with such modifications as the Department thinks necessary in consequence of the transfer.

### **Bulk transfers in**

- 147.**—(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 the transfer the transferred employees cease to be active members of an occupational pension scheme (the former employer's scheme);
  - (c) after the transfer the transferred employees become active members of this scheme;
  - (d) the Department, after consulting the scheme actuary, has agreed special terms for the acceptance of transfer value payments in respect of the transferred employees from the former employer's scheme; and
  - (e) the transferred employees have consented in writing to their rights being transferred in accordance with those terms.
- (2) This scheme has effect with such modifications as are necessary to give effect to the terms mentioned in paragraph (1)(d).
- (3) If the transfer is directly or indirectly attributable to an enactment, this scheme has effect with such modifications as the Department thinks necessary in consequence of the transfer.

## CHAPTER 3

### Miscellaneous transfers

### **EU and overseas transfers**

- 148.**—(1) This regulation applies in the case of a member whose transfer is subject to transfer arrangements concluded with—
- (a) the Communities Pension Scheme of the Institutions of the European Communities; or
  - (b) any other scheme for the provision of retirement benefits established outside the United Kingdom.

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(2) This scheme applies in relation to the member with any modifications the scheme manager considers necessary to comply with—

- (a) the terms of those arrangements;
- (b) any applicable provision contained in or made under any enactment; and
- (c) the requirements to be met by a registered pension scheme.

## **PART 8**

### **General**

#### **OOH provider**

**149.**—(1) A reference to an OOH provider is a reference to a body within paragraph (2) or (3).

(2) A body is within this paragraph if it is a company limited by guarantee (which is not otherwise an employing authority)—

- (a) in which all the members of the company are registered medical practitioners, APMS contractors or GMS practices, and the majority of those members are—
  - (i) APMS contractors or GMS practices whose APMS contracts or GMS contracts require them to provide OOH services, or
  - (ii) registered medical practitioners who are partners or shareholders in an APMS contractor or a GMS practice which is a partnership or a company limited by shares and which is required to provide OOH services under its GMS contract or APMS contract;
- (b) which has a contract with the RHSCB, an APMS contractor or a GMS practice for the provision of OOH services; and
- (c) in respect of which the RHSCB, appointed by the Department to act on the Department's behalf—
  - (i) is satisfied that the provision of OOH services by the company is wholly or mainly a mutual trading activity;
  - (ii) is satisfied that the company has met all the conditions for being an OOH provider in this regulation; and
  - (iii) has, pursuant to a written application made by the company to it for that purpose, approved the company as an employing authority.

(3) A body is within this paragraph if it is a body corporate, other than a company limited by guarantee (which is not otherwise an employing authority) which—

- (a) operates in the interests of those who are the recipients of the primary medical services it provides or of the general public;
- (b) operates on a not-for-profit basis;
- (c) is not an associated company in relation to another person;
- (d) has memorandum or articles or rules that—
  - (i) prohibit the payment of dividends to its members; and
  - (ii) require its profits (if any) or other income to be applied to promoting its objects, and
  - (iii) require all the assets which would otherwise be available to its members generally to be transferred on its winding up either to another body which operates on a not-for-profit basis and whose purpose is to provide health and social care for the benefit of

- the community or to another body the objects of which are the promotion of charity and anything incidental or conducive thereto;
- (e) has at least one member who is—
    - (i) an APMS contractor or a GMS practice; or
    - (ii) a partner in a partnership that is an APMS contractor or a GMS practice; or
    - (iii) a shareholder in a company limited by shares that is an APMS contractor or a GMS practice;
  - (f) has a contract with the RHSCB, an APMS contractor or a GMS practice, for the provision of OOH services, and
  - (g) is approved as an employing authority by the RHSCB—
    - (i) pursuant to a written application made by the body to it for that purpose; and
    - (ii) that the RHSCB being satisfied that the body has met all the condition for being an OOH provider in this regulation.
- (4) For the purposes of paragraph (3)(c)—
- (a) a body corporate is another person's associated company if the person—
    - (i) has control of it; and
    - (ii) is not an employing authority;
  - (b) a person is taken to have control of a body corporate if the person—
    - (i) exercises, or is able to exercise direct or indirect control over its affairs, or
    - (ii) is entitled to acquire such control.
- (5) A company limited by guarantee or other body corporate which provides or is to provide OOH services and which wishes to be approved as an employing authority must make a written application to the RHSCB, appointed by the Department to act on the Department's behalf.
- (6) An application referred to in paragraph (5) may specify the date from which approval by the RHSCB (if given) shall have effect ("the nominated date").
- (7) If a company limited by guarantee or other body corporate makes an application and—
- (a) the RHSCB is satisfied that the company or other body corporate is within paragraph (2) or (3), as the case may be or will be at a nominated date which is later than the approval date; and
  - (b) it approves that application, the approval takes effect on the later of the nominated date and the approval date.
- (8) If paragraph (7) applies, HSC employment is treated as commencing on the later of the nominated date (if any) and the approval date.
- (9) The RHSCB may give an OOH provider a notice in writing terminating its participation in this scheme if the provider—
- (a) does not have in force a guarantee, indemnity or bond as required by the Department in accordance with regulation 151.
  - (b) has ceased to be within paragraph (2) or (3);
  - (c) has notified the RHSCB that any one of the following events has occurred in respect of it—
    - (i) a proposal for a voluntary arrangement has been made or approved under Part II of the Insolvency (Northern Ireland) Order 1989<sup>M47</sup> ("the 1989 Order");
    - (ii) an administration application has been made, or a notice of intention to appoint an administrator has been filed with the court, or an administrator has been appointed under Part III of the 1989 Order;

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*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

- (iii) a receiver, manager, or administrative receiver has been appointed under Part IV of the 1989 Order;
  - (iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed under Part V of the 1989 Order;
  - (v) notice has been received by it that it may be struck off the register of companies, or an application to strike it off has been made, under Part 31 of the Companies Act 2006<sup>M48</sup>.
- (10) An OOH provider—
- (a) must give the RHSCB notice in writing upon the occurrence of any of the events referred to in paragraph (9)(c) and must give the notice on the same day as the event;
  - (b) that wishes to cease to participate in this scheme must give both the RHSCB and its employees not less than 3 months notice in writing (to commence with the date of the notice) of that fact.
- (11) An OOH provider must cease to participate in this scheme on—
- (a) the date specified by the RHSCB in a notice under paragraph (9);
  - (b) the day upon which the period referred to in paragraph (10)(b) expires if a notice under that provision has been given.

#### Marginal Citations

**M47** [S.I. 1989/2405 \(N.I. 19\)](#)

**M48** [2006 c.46](#)

#### Medical Practitioner

**150.**—(1) References to a medical practitioner must be construed in accordance with this regulation.

- (2) A medical practitioner is a fully registered person—
  - (a) whose name is included in a medical performers list; and
  - (b) to whom any of paragraphs (3) to (7) apply.
- (3) This paragraph applies to—
  - (a) a GMS practice,
  - (b) an APMS contractor, or
  - (c) an OOH provider.
- (4) This paragraph applies to a partner in a partnership that is—
  - (a) a GMS practice, or
  - (b) an APMS contractor.
- (5) This paragraph applies to a shareholder in a company limited by shares that is—
  - (a) a GMS practice, or
  - (b) an APMS contractor.
- (6) This paragraph applies to an ophthalmic provider.
- (7) This paragraph applies to a person—



- (a) who is employed by a GMS practice, an APMS contractor or an OOH provider wholly or mainly to assist the employer in the discharge of the employer's duties as a GMS practice, a PMS practice or an OOH provider, or
- (b) who participates in a doctors' retainer scheme as provided for by the Department.

if the person performs essential services, additional services, enhanced services, dispensing services, collaborative services, commissioned services, OOH services, certification services, Board and advisory work, pharmaceutical services, general ophthalmic services, primary dental services, practice based services education or training, or organising the education or training of medical students or practitioners (or a combination of those services) as or on behalf of that practice, contractor or provider.

(8) A person who is a GP registrar is not a medical practitioner.

(9) A reference to a fully registered person must be construed in accordance with section 55 of the Medical Act 1983 <sup>M49</sup>.

(10) An ophthalmic provider is a principal medical practitioner who is included in an ophthalmic list kept and published by the RHSCB pursuant to regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007 <sup>M50</sup>.

#### Marginal Citations

**M49** 1983 c.54. The definition of 'fully registered person' has been amended by S.I. 2000/3041; 2006/1914; 2007/3101 and 2008/1774

**M50** S.R. 2007 No.436

#### Guarantees, bonds and indemnities

151.—(1) This regulation applies if—

- (a) an employing authority fails or has at any time in the past failed, to pay or to remit contributions in accordance with regulation 30 to 34, 56 or 61; and
- (b) the employing authority is—
  - (i) a GMS practice,
  - (ii) an APMS contractor, or
  - (iii) an OOH provider.

(2) The scheme manager may require the employing authority to have in force a guarantee, indemnity or bond which provides for payment to the scheme manager, if that authority fails to meet them, of all future liabilities under—

- (a) this scheme, or
- (b) the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999 <sup>M51</sup>.

(3) The guarantee, indemnity or bond must be in such form, in respect of such amount and provided by such person as the Department approves for the purpose.

#### Marginal Citations

**M51** S.R. 1999 No.294 as amended by S.R. 2002 No.129; S.R. 2004 No.104; S.R. 2005 Nos.154 and 533; S.R. 2006 No.410; S.R. 2008 Nos.130 and 350; S.R. 2010 Nos.22 and 286; S.R. 2012 No.42 and S.R. 2013 No.259 and S.R. 2015 No.121

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*Status: Point in time view as at 01/11/2022.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015. (See end of Document for details)*

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## **Definitions**

**152.** The expressions listed in column 1 of the Table in Schedule 13 have the meaning given by the corresponding entry in column 2 in that table.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 6th March 2015

L.S.

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

The Department of Finance and Personnel consents to the foregoing Regulations.  
Sealed with the Official Seal of the Department of Finance and Personnel on 6th March 2015

L.S.

*Emer Morelli*  
A senior officer of the  
Department of Finance and Personnel

**Status:**

Point in time view as at 01/11/2022.

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015.