
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 121

The Health and Personal Social Services (Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2015

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation Scheme, Additional Voluntary Contributions and Injury Benefits), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2015.

(2) These Regulations shall come into operation on the 1st April 2015 and, save as provided for in paragraphs (3) to (7), have effect from that date.

(3) Regulations 4(2) and 19 have effect from 1st April 2014.

(4) Regulation 9 has effect from 5th December 2005.

(5) Regulations 13 and 17 have effect from 6th April 2014.

(6) Regulations 21 and 34 have effect from 1st October 2008.

(7) Regulation 27 has effect from 1st April 2008.

PART 2

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

General

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

Amendment of regulation 2

3.—(1) Regulation 2 (Interpretation) is amended as provided by paragraphs (2) to (4)

(1) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390; S.R. 1998 No.299; S.R. 1999 No.293; S.R. 2002 No.69; S.R. 2004 Nos.103 and 104; S.R. 2005 Nos.155, 533, 534 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.96, 130 and 163; S.R. 2009 Nos.65 and 188; S.R. 2010 Nos.22, 286 and 420; S.R. 2011 No.256; S.R. 2012 Nos.42 and 78; S.R. 2013 Nos.40, 73, 247 and 259; S.R. 2014 Nos.59 and 225 and S.R. 2015 Nos.56 and 122

- (2) After the definition of “2011 Act” insert—
 ““the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014(2);
 “the 2015 Scheme” means the scheme set out in the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015(3);”.
- (3) At the appropriate place in alphabetical order insert—
 ““consumer prices index” means the all items consumer prices index published by the Statistics Board of the UK Statistics Authority for the month of February immediately preceding a relevant year;”.
- (4) For the definition of “registered medical practitioner”(4), substitute—
 ““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(5);”.

Amendment of regulation 3

4.—(1) Regulation 3 (Meaning of “superannuable pay”)(6), is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (a) of paragraph (1)(7) after “bonuses” insert “pay awards and pay increases that are expressed by the Department to be non-consolidated”.

(3) After paragraph (9) add—

“(10) Where, having regard to the matters referred to in paragraph (11), the Department considers that the amount which would, but for the Department’s determination under this paragraph, constitute the member’s final year’s superannuable pay is inordinate, determine—

- (a) what the amount of that pensionable pay is to be, and
- (b) the date from which any change in the amount of that pay as a result of that determination is to take effect.

(11) Those matters are—

- (a) any variations in the level of the member’s superannuable pay during a period not exceeding ten years and ending with the earlier of the date the member ceases to be in superannuable employment or the date the member dies;
- (b) the general level of superannuable pay pertaining in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);
- (a) promotion and re-grading prospects in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);
- (b) any other matters the Department considers relevant.

(12) Where the Department determines the amount of a member’s superannuable pay pursuant to paragraph (10)—

(2) [2014 c.2 \(N.I.\)](#)
 (3) [S.R. 2015 No.120](#)
 (4) The definition of registered medical practitioner was previously inserted by [S.R. 2010 No.286](#) regulation 3(d)
 (5) [1983 c.54](#)
 (6) Regulation 3 as amended by [S.R. 1997 No.217](#) regulation 3; [S.R. 2005 No.155](#) regulation 3 and No.565 regulation 5; [S.R. 1995 No.163](#) regulation 3
 (7) Paragraph (1) was substituted by [S.R. 2005 No.565](#) regulation 5

- (a) the difference between the amount which would, but for that determination, be the member's final year's superannuable pay and the amount so determined shall be ignored for the purposes of this regulation ("the ignored amount");
- (b) any contributions referable to the ignored amount and paid by the member pursuant to regulation 10 or 72, paragraphs 10 or 23 of Schedule 2, must, net of any tax payable, be refunded to that member;
- (c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation 11 or paragraphs 10 or 23 of Schedule 2, shall be refunded to that employing authority;
- (d) the amount so determined is not be regarded as an "excessive pay increase" for the purposes of regulation 11A."

Amendment of regulation 10

5.—(1) Regulation 10 (Contributions by members) is amended as provided by paragraphs (2) to (5).

(2) For paragraph (1A)(8), substitute—

“(1A) A member's contribution rate for each of the scheme years 2015-2016 to 2018-2019 inclusive is the percentage specified in column 2 of the following table in respect of the corresponding superannuable pay band specified in column 1 of that table into which the member's superannuable pay falls.

Table: Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,485	9.3%
£47,486 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(3) Omit paragraph (1B)(9).

(4) In paragraph (2)(10), for “the tables set out in this regulation” substitute “the table in paragraph (1A)”.

(5) In paragraphs (2Q), (2R) and (2V)(11), for “paragraph (1B)” substitute “paragraph (1A)”.

(8) Paragraph (1A) was substituted by S.R. 2009 No.188, regulation 4; S.R.2010 No.420, regulation 3(2); S.R. 2012 No.78, regulation 4(2); S.R. 2013 No.73, regulation 6 and S.R. 2013 No.247, regulation 3(2) and amended by S.R. 2014 No.59, regulation 3(2)

(9) Paragraph (1B) was inserted by S.R. 2013 No.247, regulation 3(2) and amended by S.R. 2014 No.59, regulation 3(5) and S.R. 2015 No.56 regulation 3

(10) Paragraph (2) was substituted by S.R. 2008 No.188, regulation 4 and amended by S.R. 2010 No.420, regulation 3(2); S.R. 2012 No.78, regulation 4(2); S.R. 2013 No.73, regulation 6 and S.R. 2013 No.247, regulation 3(3)

(11) The last relevant statutory rule in respect of paragraphs (2Q), (2R) and (2V) was S.R. 2012 No.78

Amendment of regulation 11

6. In paragraph (2) of regulation 11 (Contributions by employing authorities)(12), for “13.3%” substitute “16.3%”.

New regulation 11A

7. After regulation 11 (Contributions by employing authorities) insert—

“Further contributions by employing authorities in respect of excessive pay increases

11A.—(1) This regulation applies where a member becomes entitled to a benefit in accordance with regulation 12, 13A, 14A, 14C, 16 or 49 and the Department determines that the member’s final year’s superannuable pay determined under regulation 3(6) exceeds the allowable amount.

(2) For the purposes of this regulation—

- (a) Year 1 is the year in which the member ceases to be in superannuable employment or dies, whichever occurs first;
- (b) Year 2 is the year immediately preceding Year 1;
- (c) Year 3 is the year immediately preceding Year 2.

(3) The allowable amount in respect of Year 1 is the lower of—

- (a) the member’s superannuable pay for Year 1, and
- (b) the allowable amount for Year 2 increased by the lower of—
 - (i) the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 1 is higher than it was for the previous February, and
 - (ii) the percentage increase in the member’s superannuable pay for Year 1 compared with Year 2.

(4) The allowable amount in respect of Year 2 is the lower of—

- (a) the member’s superannuable pay for Year 2, and
- (b) the allowable amount for Year 3 increased by the lower of—
 - (i) the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 2 is higher than it was for the previous February, and
 - (ii) the percentage increase in the member’s superannuable pay for Year 2 compared with Year 3.

(5) The allowable amount in respect of Year 3 is the lower of—

- (a) the member’s superannuable pay for Year 3, and
- (b) the member’s superannuable pay for the year immediately preceding Year 3 increased by the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 3 is higher than it was for the previous February.

(6) An excess employer contribution is determined as follows—

Step 1: find Amount A, which is the difference between the member’s final year’s superannuable pay and the allowable amount for that year

(12) Regulation 11 as amended by S.R. 2005 No.533, regulation 3(2); S.R. 2005 No.565, regulation 8; S.R. 2008 No.96, regulation 3(2); S.R. 2008 No.130, regulation 3(3); S.R. 2008 No.163, regulation 8 and S.R. 2010 No.420, regulation 4

Step 2: calculate amount B, which is the amount of the pension payable to the member as if the member's final year's superannuable pay consisted only of Amount A increased by an amount equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of that amount

Step 3: calculate amount C, which is the amount of the lump sum payable to the member as if the member's final year's superannuable pay consisted only of amount a increased by an amount equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a lump sum of that amount

Step 4: multiply Amount B by the applicable factor to find Amount D

Step 5: in the case of a member who is entitled to a benefit under regulation 49, multiply Amount C by the applicable factor to find Amount E

Step 6: add together—

- (a) Amount D and Amount E, in the case of a member entitled to a benefit under regulation 49;
- (b) Amount C and amount D, in all other cases,
to find the amount of the excess employer contribution.

(7) Where the member's final year's superannuable pay exceeds the allowable amount by reason only of it including an amount in respect of a national award recommended by the Advisory Committee on Clinical Excellence Awards, the body responsible for the funding of that award must pay the excess employer contribution.

(8) Paragraphs (9) and (10) apply where Amount A found under Step 1 of paragraph (6) includes both—

- (a) an increased pay award from the member's employing authority, and
- (b) a national award recommended by the Advisory Committee on Clinical Excellence Awards.

(9) Where—

- (a) the inclusion of both of the awards referred to in paragraph (8) in the member's superannuable pay in Year 3, Year 2 or, as the case may be, Year 1 means that pay is the member's final year's superannuable pay in accordance with regulation 3(6), but
- (b) the exclusion of the award referred to in paragraph (8)(b) from the member's superannuable pay in the year identified in sub-paragraph (a) would result in a different one of those years being so identified,

the Department, after consulting the Scheme Actuary, is to determine the proportion of the excess employer contribution determined in accordance with paragraph (6) to be paid by the member's employing authority and the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards: the determination of the excess employer contribution is to take account of the award referred to in paragraph (8)(b).

(10) Where the inclusion of both of the awards referred to in paragraph (8) in the member's superannuable pay in Year 3, Year 2 or, as the case may be, Year 1 means that pay is the member's final year's superannuable pay in accordance with regulation 3(6), and the exclusion of the award referred to in paragraph (8)(b) would not result in a different one of those years being so identified, the amount of the excess employer contribution determined in accordance with paragraph (6) (and taking account of the amount referred to in paragraph (8)(b)) payable by the member's employing authority and the body responsible

for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards is to be determined in accordance with paragraph (11).

(11) The amount of the excess employer contribution payable by the member's employing authority and the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards is to be determined as follows—

Step 1: find Amount A in accordance with Step 1 of paragraph (6)

Step 2: find Amount F, which is the difference between—

- (a) the member's superannuable pay for the member's last year of superannuable employment as if that, and the member's superannuable pay in previous years, did not include the award referred to in paragraph (8)(b), and
- (b) the allowable amount for that year as if the member's superannuable pay for previous years had not included the award referred to in paragraph (8)(b)

Step 3: divide Amount F by Amount A and express the result as a percentage: that is the percentage of the excess employer contribution payable by the member's employing authority

Step 4: subtract the percentage found under Step 3 from 100% to find the percentage of the excess employer contribution payable by the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards.

(12) The amount of an excess employer contribution must be paid to the Department within 1 month of the Department notifying the payer of its liability for that amount: but the Department may exceptionally specify that it is to be paid within some other period.

(13) Where a payer fails to pay all, or any part, of the excess employer contribution it is liable to pay, the Department is to give that payer a written notice ("a late payment notice") specifying all of the following—

- (a) the amount of the excess employer contribution that is unpaid;
- (b) the amount of any interest due on the amount referred to in paragraph (a);
- (c) the amount of the administration charge arising from the late payment of the excess employer contribution;
- (d) that the amounts in (a) to (c) are to be received by the Department within 1 month of the date of the notice.

(14) Where a payer fails to comply with a late payment notice, the Department may issue a further late payment notice amended to take account of that failure.

(15) Where a member has superannuable employment with more than one employing authority during the years referred to in paragraph (2), this regulation applies to each such employment separately.

(16) In the case of a member in part-time employment, this regulation is subject to regulation 78.

(17) For the purpose of this regulation an increase in superannuable pay during Year 3, Year 2 or, as the case may be, Year 1 is to be ignored where the Department is satisfied it arises as a result of—

- (a) the member taking up new employment with a new employer: provided the Department is satisfied that the employer in question is a new employer;
- (b) the ending of a salary sacrifice arrangement made before the 1 April 2015: for these purposes a salary sacrifice arrangement is one under which the member gives up the right to receive an amount of superannuable pay in return for the

provision of a benefit in kind including, but not limited to, a benefit consisting of a motor car or other vehicle, meals care or vouchers.

(18) If the Department is not satisfied that the employer in question is a new employer, that employer is to be treated as an employing authority liable for an excess employer contribution in accordance with this regulation.

(19) An increase in a member's superannuable pay due to the acceptance of a transfer payment in the circumstances described in regulation 3(5) shall be ignored for the purposes of this regulation.

(20) In any particular case the Department may direct that, for the purposes of this regulation, "employing authority" includes one or more of a successor, transmittee or assignee of an employing authority's business or functions.

(21) For the purposes of this regulation—

- (a) a "payer" is the person who is liable to pay all or part of an excess employer contribution to the Department in accordance with this regulation;
- (b) the superannuable pay to be taken into account by the Department for a year or part of a year referred to in paragraph (2) will be derived from the superannuable pay for that period recorded in scheme year pension records provided to the Department in accordance with paragraph (5) of regulation 97;
- (c) where the member is in superannuable employment for less than 12 months superannuable pay for that year means—

(superannuable pay/number of days superannuable employment) × 365

- (d) no account is to be taken of increases in superannuable pay prior to 1st April 2015 or more than 1095 days prior to the member's last day of superannuable employment;
- (e) the applicable factor is to be determined from time to time by the Department having considered the advice of the Scheme Actuary and having obtained the consent of the Department of Finance and Personnel;
- (f) if the percentage increase in the consumer prices index referred to in paragraphs (3), (4) and (5) is less than zero, it will be regarded as a percentage increase of 0% for the purposes of this regulation;
- (g) a benefit referred to in paragraph (1) means—
 - (i) in the case of regulation 13A, a benefit including the effects of any increase in superannuable service referred to in paragraph (4) of that regulation;
 - (ii) in the case of regulation 16, a benefit including the effects of any reduction referred to in paragraph (2) of that regulation;
- (h) for the purposes of making any payment it is liable to pay under this regulation, the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards shall have the same liabilities and duties as an employing authority under these Regulations in respect of that payment."

Amendment of regulation 14A

8.—(1) Regulation 14A (Early retirement pension (Termination of employment by employing authority))(13) is amended as provided by paragraphs (2) and (3).

(13) Regulation 14A was inserted by [S.R. 2008 No.96](#), regulation 3(5); amended by [S.R. 2013 No.40](#), regulation 5 and [S.R. 2013 No.56](#), regulation 5

(2) In paragraph (4), after “12” insert “: this is subject to paragraph (4A)”.

(3) After paragraph (4), insert—

“(4A) A member who satisfies the conditions in paragraph (2) is not entitled to a pension under this regulation if the Department, 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 the member is entitled.”.

Amendment of regulation 23

9. For paragraphs (4) and (5) of regulation 23 (Widows pension)(14), substitute—

“(4) If the Department is satisfied that the widow will otherwise suffer severe financial hardship, the Department may pay a pension to a widow who—

- (a) has remarried,
- (b) has formed a civil partnership,
- (c) is living together as husband and wife with a man to whom the widow is not married,
- (d) is living together as if in a civil partnership with a woman who is not the widow’s civil partner.

(5) If the Department is satisfied that the widow will otherwise suffer hardship, the Department may pay a pension to a widow who has—

- (a) remarried and that later marriage has come to an end,
- (b) formed a civil partnership which has come to an end.”.

Amendment of regulation 53

10. In paragraph (8) of regulation 53 (Member’s right to transfer or buy-out), before sub-paragraph (a) insert—

“(za) a member may require the cash equivalent to be used to acquire rights in one or more of the ways permitted under section 97AE of the 1993 Act(15);”.

Amendment of regulation 59

11. In sub-paragraph (c) of paragraph (3) of regulation 59 (Member’s right to transfer a preserved pension to the 2008 Section)(16), after “Section” insert “ on or before 31st March 2015 and”.

New Regulation 59A

12. After regulation 59 (Member’s right to transfer a preserved pension to the 2008 Section), insert—

“Member’s right to transfer a preserved pension to the 2015 Scheme

59A.—(1) A member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Department to use the cash equivalent of the member’s rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(14) Regulation 23 as amended by [S.R. 2005 No.533](#), regulation 3(4) and [S.R. 2008 No.163](#), regulation 19

(15) Section 97AE was inserted by Article 241 of the Pension (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#))

(16) Regulation 59 was inserted by [S.R. 2009 No.65](#) regulation 13 and amended by [S.R. 2010 No.286](#) regulation 12

- (2) Condition A is that the member—
- (a) is entitled to a deferred benefit under regulation 49,
 - (b) has not been a member of the 2008 Section, and
 - (c) became an active member of the 2015 Scheme before attaining the age of 60.
- (3) Condition B is that the member has a break in superannuable employment for any one period of more than five years beginning with the day immediately following the cessation of the superannuable employment in respect of which that person is entitled to the pension referred to in paragraph (2)(a) and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(c).
- (4) Condition C is that the member—
- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
 - (b) has not previously had a break in superannuable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.
- (5) For the purposes of paragraphs (3) and (4) any break in superannuable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2014 Act is to be disregarded.
- (6) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).
- (7) In this regulation “the guarantee date” means any date that falls within the required period and is—
- (a) chosen by the Department,
 - (b) specified in the statement of entitlement, and
 - (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.
- (8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.
- (9) In paragraph (7), “the required period” means—
- (a) the period of three months beginning with the date that the Department receives notification from the member’s employing authority that the member has joined the 2015 Scheme; or
 - (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.
- (10) Subject to paragraphs (11) to (13), the member’s guaranteed cash equivalent shall be equal to the capitalised value of all of the member’s rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971(17).
- (11) The Department shall—
- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, and

- (a) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽¹⁸⁾.

(12) Except in the case of a transfer payment accepted under regulation 62A (Transfers in respect of members to whom regulation 9A applies who elect to join or re-join the scheme), a member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 60(4), plus the amount of the member's contributions to this Section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Department for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Department;
- (b) to be made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this Section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
- (b) the member's rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.

(16) A member's right to require the Department to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”

Amendment of regulation 89A

13.—(1) Regulation 89A (Deduction of tax: further provisions)⁽¹⁹⁾ is amended as provided by paragraphs (2) to (4).

(2) After paragraph (7A)⁽²⁰⁾, add—

“(7B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014⁽²¹⁾, that person must give to the scheme administrator—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014⁽²²⁾ in respect of that entitlement, and
- (b) the information referred to in paragraph (7).”

⁽¹⁸⁾ S.R. 1996 No.619

⁽¹⁹⁾ Regulation 89A was inserted by S.R. 2006 No.410, regulation 16; amended by S.R. 2008 No.130, regulation 3(18); S.R. 2008 No.163, regulation 62; S.R. 2011 No.256, regulation 4; S.R. 2012 No.42, regulation 8 and S.R.2012 No.78, regulation 7

⁽²⁰⁾ Paragraph (7A) was inserted by S.R. 2012 No.78 regulation 7(3) and amended by S.R. 2014 No.225 regulation 4(2)

⁽²¹⁾ 2014 c.26

⁽²²⁾ S.I. 2014/1842

- (3) In paragraph (8)(**23**), for “paragraph (7) or (7A)” substitute “paragraph (7), (7A) or (7B)”.
- (4) In paragraph (9)(**24**), for “paragraph (7) or (7A)” substitute “paragraph (7), (7A) or (7B)”.

New regulation 97C

14. After regulation 97B (Interest on late payment of benefits and refunds of contributions), insert—

“Interest and Administration Charges: Late paid contributions

97C.—(1) For the purposes of this regulation there is a “chargeable event” where an employing authority fails to pay, by the dates therein specified, the full amount of contributions it is required to pay under any of the following provisions—

- (a) regulations 10, 11, 11A, 70, 71, 72, 73A, 73C, 73D;
- (b) paragraph 10 or 23 of Schedule 2.

(2) Where there is a chargeable event, the amount of contributions that should have been paid under a provision referred to in paragraph (1) is to be determined by the Department having regard to—

- (a) the amount of contributions historically paid pursuant to the provision in question 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 pursuant to that provision;
- (c) any other factors that the Department considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions determined under paragraph (2) and an administration charge in respect of each such event.

(4) Where the Department becomes aware of a chargeable event, the Department shall give the employing authority a written notice specifying—

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

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Department considers the case to be exceptional and considers it appropriate for that amount to be paid over a period, and by a number of instalments, determined by the Department.

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

(7) In the case of arrears in respect of the scheme year 2015-16 and subsequent years, the standard rate of interest is the aggregate of the percentage (if any) by which the consumer

(23) Paragraph (8) was amended by [S.R. 2014 No.225](#) regulation 4(3)

(24) Paragraph (9) was amended by [S.R. 2014 No.225](#) regulation 4(4)

prices index for the February before the scheme year in which the chargeable event arose is higher than it was for the previous February plus 3%, compounded at annual intervals.

(8) In respect of arrears in respect of the scheme year 2015-16 and subsequent years, the administration charge is £75.

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

Amendment of Schedule 2

15. In paragraph 10 of Schedule 2 (Medical and dental practitioners), for sub-paragraph (1A)(25) substitute—

“(1A) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2014-2015 scheme year, Table 1;
- (b) in respect of the 2015-2016 to 2018-2019 scheme years, Table 2.

Table 1

Scheme Year 2014-15

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2

Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable Earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£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%

(25) Paragraph (1A) was substituted by [S.R. 2014 No.59](#), regulation 4 and amended by [S.R. 2015 No.56](#) regulation 4

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable Earnings band</i>	<i>Contribution percentage rate</i>
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

PART 3

Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

General

16. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008⁽²⁶⁾ are amended as provided by regulations 17 to 41.

Amendment of regulation 5

17. After paragraph (3A)⁽²⁷⁾ of regulation 5 (Provision of information relevant for tax purposes), insert—

“(3B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014, that person must give to the scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014 in respect of that entitlement.”.

Amendment of regulation 6

18.—(1) Paragraph (1) of regulation 6 (Interpretation) is amended as provided by paragraphs (2) to (5).

(2) After the definition of “2011 Act” insert—

““the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014⁽²⁸⁾;

“the 2015 Scheme” means the scheme as set out in the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015⁽²⁹⁾”.

(3) At the appropriate place in alphabetical order insert—

““consumer prices index” means the all items consumer prices index published by the Statistics Board of the UK Statistics Authority for the month of February immediately preceding a relevant year;”.

(4) For the definition of “registered medical practitioner”⁽³⁰⁾, substitute—

⁽²⁶⁾ S.R. 2008 No.256 as amended by S.R. 2009 Nos. 65 and 188; S.R. 2010 Nos. 22, 286 and 420; S.R. 2011 No.256; S.R. 2012 Nos.42 and 78; S.R. 2013 Nos.40, 73, 247 and 259 and S.R. 2014 Nos.59 and S.R. 2015 Nos.56 and 122

⁽²⁷⁾ Paragraph (3A) was inserted by S.R. 2012 No.78, regulation 10(2) and amended by S.R. 2014 No.225, regulation 9

⁽²⁸⁾ 2014 c.2 (N.I.)

⁽²⁹⁾ S.R. 2015 No.120

⁽³⁰⁾ The definition of registered medical practitioner was inserted by S.R. 2010 No.286 regulation 17(d)

““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(31);”.

Amendment of regulation 13

19. After sub-paragraph (a) of paragraph (3) of regulation 13 (Meaning of “pensionable pay”), insert—

“(aa) pay awards and pay increases that are expressed by the Department to be non-consolidated.”.

New regulation 17A

20. After regulation 17 (Restriction on pensionable pay used for calculating benefits in respect of capped transferred-in service), insert—

“Restriction of reckonable pay where the Department considers the amount is inordinate

17A.—(1) Where, having regard to the matters referred to in paragraph (2), the Department considers that the amount which would otherwise constitute the member’s interim reckonable pay for the purposes of regulation 15 is inordinate, the Department may, determine what the amount of a member’s interim reckonable pay is to be and the date from which any change in the amount of that pay as a result of that determination is to take effect.

(2) Those matters are—

- (a) any variations in the level of the member’s pensionable pay during a period not exceeding ten years and ending with the earlier of the date the member ceases to be in pensionable employment or the date the member dies;
- (b) the general level of pensionable pay pertaining in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);
- (c) promotion and re-grading prospects in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);
- (d) any other matters the Department considers relevant.

(3) Where the Department determines the amount of a member’s interim pensionable pay pursuant to paragraph (1)—

- (a) the difference between the amount which would, but for the determination pursuant to paragraph (1), be the member’s interim reckonable pay and the amount so determined pursuant to that paragraph and adjusted for the purposes of regulation 16, must be ignored for the purposes of this regulation (“the ignored amount”);
- (b) any contributions referable to the ignored amount and paid by the member pursuant to regulation 27 must, net of any tax payable, be refunded to that member;
- (c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation 31 are to be refunded to that employing authority.”.

Amendment of regulation 22

21. In sub-paragraph (b) of paragraph (2) of regulation 22 (Restrictions on eligibility: general)(32), after “person” insert “or that person became an active member of this Section of the Scheme before reaching normal benefit age for the purposes of the 1995 Section”.

Amendment of regulation 28

22.—(1) Regulation 28 (Contribution rate for members other than non-GP providers)(33), is amended as provided by paragraphs (2) and (3).

(2) For paragraph (2), substitute—

“(2) A member’s contribution rate for each of the scheme years 2015-2016 to 2018-2019 inclusive is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

Table: Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,485	9.3%
£47,486 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(3) Omit paragraph (2A).

Amendment of regulation 29

23. In paragraphs (16), (17) and (21) of regulation 29 (Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers)(34), for “paragraph (2A)” substitute “paragraph (2)”.

Amendment of regulation 30

24. For paragraph (14) of regulation 30 (Contribution rate and determination of pensionable earnings for non-GP providers)(35), substitute—

“(14) For the purposes of this paragraph, the “relevant table” means—

(32) Regulation 22 as amended by [S.R. 2009 No.65](#) regulation 30; [S.R. 2010 No.22](#) regulation 22 and [S.R. 2010 No.286](#) regulation 21

(33) Regulation 28 was substituted by [S.R. 2010 No.420](#), regulation 12 and amended by [S.R. 2012 No.78](#), regulation 12; [S.R. 2013 No.40](#), regulation 12; [S.R. 2013 No.73](#), regulation 12; [S.R. 2013 No.247](#), regulation 6; [S.R. 2014 No.59](#), regulation 6 and [S.R. 2015 No.56](#) regulation 6

(34) In respect of paragraphs (16), (17) and (21), the last relevant amending rule is [S.R. 2013 No.247](#), regulations 6 and 7

(35) Paragraph 14 was substituted [S.R. 2014 No.59](#), regulation 7 and amended by [S.R. 2015 No.56](#), regulation 7

- (a) in respect of the 2014-2015 scheme year, Table 1;
 (b) in respect of the 2015-2016 to 2018-2019 scheme years, Table 2.

Table 1**Scheme Year 2014-15**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2**Scheme Years 2015-2016 to 2018-2019**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£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%”.

Amendment of regulation 31

25. In paragraph (4) of regulation 31 (Contributions by employing authorities: general), for “13.3% substitute “16.3%”.

Amendment of regulation 55

26.—(1) Regulation 55 (Early retirement on termination of employment by employing authority)(36) is amended as provided by paragraphs (2) and (3).

(36) Regulation 55 as amended by S.R. 2008 No.188, regulation 28; S.R. 2013 No.40, regulation 13 and S.R. 2013 No.259, regulation 25

- (2) In paragraph (3), after “to it” insert “: this is subject to paragraph (3A)”.
- (3) After paragraph (3), insert—

“(3A) A member who satisfies the conditions of this regulation is not entitled to a pension under this regulation if the Department, 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 the member is entitled.”.

Amendment of regulation 71

27. In paragraph (2) of regulation 71 (Amount of pensions under regulation 67: deferred members), omit from “whose” to “last day of pensionable service”.

Amendment of regulation 93

28. In sub-paragraph (a) of paragraph (3)(37) of regulation 93 (Introduction: rights to transfer value payment), for “section 89(1)(a)” substitute “section 89”.

Amendment of regulation 96

29. In paragraph (6) of regulation 96 (Applications for transfer value payments: time limits), for “does not fall within regulation 45(2)” substitute “falls within regulation 93(4)”.

Amendment of regulation 97

30.—(1) Regulation 97 (Ways in which transfer value payments may be applied) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1), for “A member” substitute “If Chapter IV of Part IV of the 1993 Act applies to a member, that member”.

- (3) For paragraph (2), substitute—

“(2) In any other case, a member may only require the Department to apply the guaranteed equivalent transfer value payment in one or more of the ways permitted under section 97AE of the 1993 Act(38).”.

New regulation 108B

- 31. After regulation 108A (Transfers across from the 1995 section), insert—

“Right to transfer a deferred pension to the 2015 Scheme

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

- (2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation

(37) Paragraph (3) was amended by S.R. 2010 No.22 regulation 105

(38) Section 97AE was inserted by Article 241 of the Pension (Northern Ireland) Order 2005 (S.I. 2005 No.255 (N.I. 1))

of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2014 Act is to be disregarded.

(6) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").

(7) In this regulation "the guarantee date" means any date that falls within the required period and is—

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

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- (a) the period of three months beginning with the date that the Department receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971⁽³⁹⁾.

(11) The Department shall—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
- (a) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽⁴⁰⁾.

(12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 102 (which deals with the

⁽³⁹⁾ 1971 c.35 (N.I.)

⁽⁴⁰⁾ S.R. 1996 No.619

crediting of additional service upon transfer), plus the amount of the member's contributions to this section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Department for the cash equivalent of the member's rights under this section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Department;
- (b) to be made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
- (b) the member's rights under this section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.

(16) A member's right to require the Department to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”

New regulation 132A

32. After regulation 132 (Interest on late payment of benefits and refunds of contributions), insert—

“Interest and Administration Charges: Late paid contributions

132A.—(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 27, 30, 31, 32, 34, 36, or 37 there is a chargeable event.

(2) Where there is a chargeable event, the Department 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 Department considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Department becomes aware of a chargeable event, the Department shall 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;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Department considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid over a period and by a number of instalments, determined by the Department.

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

(7) In the case of arrears in respect of the scheme year 2015-16 and subsequent years, the standard rate of interest is the aggregate of the percentage (if any) by which the consumer prices index for the February before the scheme year in which the chargeable event arose is higher than it was for the previous February 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.

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

Amendment of regulation 137

33.—(1) Regulation 137 (Interpretation) is amended as provided by paragraphs (2) and (3).

(2) After the definition of “the 2011 Act” insert—

““the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014⁽⁴¹⁾;

“the 2015 Scheme” means the scheme as set out in the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015⁽⁴²⁾.”.

(3) For the definition of “registered medical practitioner”⁽⁴³⁾, substitute—

““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983⁽⁴⁴⁾.”.

Amendment of regulation 154

34. In sub-paragraph (b) of paragraph (1) of regulation 154 (Restrictions on eligibility: general) after “person” insert “or that person became an active member of this Section of the Scheme before reaching normal benefit age for the purposes of the 1995 Section”.

Amendment of regulation 161

35. In regulation 161 (Members’ contribution rate), for paragraph (17)⁽⁴⁵⁾ substitute—

“(17) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2014-2015 scheme year, Table 1;

(41) 2014 c.2 (N.I.)

(42) S.R. 2015 No.120

(43) The definition of registered medical practitioner was inserted by S.R. 2010 No.286 regulation 35

(44) 1983 c.54

(45) Paragraph (17) was substituted by S.R. 2014 No.59, regulation 8 and amended by S.R. 2015 No.56 regulation 8

(b) in respect of the 2015-2016 to 2018-2019 scheme years, Table 2.

Table 1

Scheme Year 2014-15

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2

Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£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%”.

Amendment of regulation 162

36. In paragraph (5) of regulation 162 (Contributions by employing authorities: general), for “13.3%” substitute “16.3%”.

Amendment of regulation 220

37.—(1) In sub-paragraph (a) of paragraph (3) of regulation 220 (Introduction: rights to transfer payment), for “section 89(1)(a)” substitute “section 89”.

Amendment of regulation 223

38. In paragraph (6) of regulation 223 (Applications for transfer value payments: time limits), for “does not fall within regulation 176(2)” substitute “falls within regulation 220(4)”.

Amendment of regulation 224

39.—(1) Regulation 224 (Ways in which transfer value payments may be applied) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (1), for “A member” substitute “If Chapter IV of Part IV of the 1993 Act applies to a member, that member”.

(3) For paragraph (2), substitute—

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

New regulation 235B

40. After regulation 235A (Transfers across from the 1995 Section), insert—

“Right to transfer a deferred pension to the 2015 Scheme

235B.—(1) An active member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Department to use the cash equivalent of the member’s rights under this section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

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

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in active membership of this section of the scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2014 Act is to be disregarded.

(6) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(7) In this regulation “the guarantee date” means any date that falls within the required period and is—

- (a) chosen by the Department,

- (b) specified in the statement of entitlement, and
 - (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.
- (8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.
- (9) In paragraph (7), "the required period" means—
- (a) the period of three months beginning with the date that the Department receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
 - (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.
- (10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971⁽⁴⁶⁾.
- (11) The Department shall—
- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
 - (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽⁴⁷⁾.
- (12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 229 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this section of the scheme.
- (13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Department for the cash equivalent of the member's rights under this section of the scheme to be used to acquire rights under the 2015 Scheme.
- (14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—
- (a) to be made in writing on the form provided for this purpose by the Department;
 - (b) to be made before the end of the period of three months beginning with the guarantee date;
 - (c) irrevocable.
- (15) On the making of such an application—
- (a) member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
 - (b) the member's rights under this section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings

⁽⁴⁶⁾ 1971 c.35 (N.I.)

⁽⁴⁷⁾ 1996 No.619

and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.

(16) A member’s right to require the Department to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.”.

New regulation 256A

41. After regulation 256 (Interest on late payment of benefits and refunds of contributions), insert—

“Interest and Administration Charges: Late paid contributions

256A.—(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 160, 162, 164, 165, 167 or 168 there is a chargeable event.

(2) Where there is a chargeable event, the Department may determine by the Department 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 Department considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Department becomes aware of a chargeable event, the Department shall 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) constituting each such chargeable event;
- (c) the amount of interest at the standard rate payable in respect of each of those events;
- (d) the amount of administration charge payable in respect of that event;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as a single lump sum unless the Department considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid over a period and by a number of instalments, determined by the Department.

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

(7) In the case of arrears in respect of the scheme year 2015-16 and subsequent years, the standard rate of interest is the aggregate of the percentage (if any) by which the consumer prices index for the February before the scheme year in which the chargeable event arose is higher than it was for the previous February 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.

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

PART 4

Amendment of the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001

General

42. The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(48) are amended as provided by regulations 43 to 47.

Amendment of regulation 2

43.—(1) Regulation 2 (Interpretation) is amended as provided by paragraphs (2) to (4).

(2) After the definition of “the 2008 Regulations” insert—

““the 2015 Regulations” means the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015(49);”.

(3) Omit the following definitions—

(a) “average remuneration”;

“(b) “GP performer” has the same meaning as in the Superannuation Scheme Regulations”;

“(c) “GP provider” has the same meaning as in the principal Regulations”;

“(d) “registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983”.

(4) For the definition of “the Scheme”, substitute—

“the Scheme” means the Health and Social Care Pension Scheme, the rules of which are set out in the 1995 Regulations, the 2008 Regulations and the 2015 Regulations as the case may be.”.

Amendment of regulation 2A

44. After paragraph (2) of regulation 2A (Meaning of “practitioner”)(50), add—

“(3) In these Regulations, in relation to a person who is or is eligible to a member of the Scheme set out in the 2015 Regulations, “practitioner” means those persons referred to in Parts 2 and 3 (medical contractors, dental providers and medical practitioners and dental practitioners) of Schedule 5 (Membership gateways) to the 2015 Regulations except—

(a) a locum practitioner;

(b) a non-GP provider;”.

(48) S.R. 2001 No.367 as amended by S.R. 2005 Nos.533 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.130 and 350; S.R. 2009 Nos.65 and 188; S.R. 2010 No.286; S.R. 2012 No.42; S.R. 2013 Nos.40 and 141

(49) S.R. 2015 No.120

(50) Regulation 2A was inserted by S.R. 2008 No.350, regulation 3(4) and amended by S.R. 2009 No.188, regulation 81 and S.R. 2010 No.286, regulation 54

New regulation 2B

45. After regulation 2A (Meaning of practitioner), insert—

“Meaning of “average remuneration”

2B.—(1) In these Regulations, “average remuneration” means—

- (a) in relation to a practitioner to whom the 1995 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with paragraph 11(2) of Schedule 2 to those Regulations;
- (b) in relation to a practitioner to whom the 2008 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with regulation 176(4)(b) of those Regulations;
- (c) in relation to a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person’s yearly average earnings;
- (d) in relation to a person other than a practitioner to whom the 1995 Regulations apply, such amount as would be or would have been that person’s final year’s superannuable pay under regulation 3(6) of those Regulations, (assuming, in the case of a person to whom regulation 3(1)(c) applies, that the person was in receipt of the superannuable pay which would, in the opinion of the Department, have been payable if the person were employed whole-time by an employing authority on similar duties);
- (e) in relation to a person other than a practitioner to whom the 2008 Regulations apply, such amount as would be or would have been (as the case may be) that person’s reckonable pay under regulation 15 of those Regulations;
- (f) in relation to a person other than a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person’s yearly average earnings.

(2) The yearly average, final year’s superannuable pay and reckonable pay referred to in paragraph (1) are to be calculated as if the person to whom regulation 3(1) applies had retired—

- (a) in the case of a person eligible for an allowance under regulation 4(3A) or (3D), on the date on which that person ceased to be employed as a person to whom that regulation 3(1) applies;
- (b) in the case of a person eligible for an allowance under regulation 4(4), (4B), (5) or (5D), on the date on which that person’s emoluments were reduced;
- (c) in the case of any other person, on the date on which by reason of the injury or disease that person’s employment ceased.

This is subject to paragraphs (3) and (4).

(3) This paragraph applies to a person to whom regulation 3(1)(a) applies who was employed as a senior registrar, registrar, specialist registrar, senior house officer or house officer immediately before—

- (a) ceasing to be employed by reason of the injury or disease or as a person to whom that regulation applies, or
- (b) the date on which that person’s emoluments were reduced.

(4) In the case of a person to whom paragraph (3) applies, average remuneration shall be increased to the amount which in the opinion of the Department represents the average

remuneration of a general medical practitioner or, as the case may be, a general dental practitioner.

(5) In the case of a person to whom the 2015 Regulations apply, and who is a not practitioner, that person's yearly average earnings are the greater of—

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

(6) In the case of a person to whom the 2015 Regulations apply, and who is a practitioner, that person's yearly average earnings are the average of the annual amounts that would be, or would have been, the person's re-valued pensionable earnings in respect of practitioner service or service which is treated as practitioner service.

(7) The optimum re-valued pensionable earnings is the re-valued superannuable earnings for the scheme year in the earnings reference period for which the person has the greatest amount of re-valued pensionable earnings.

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

- (a) the annual rate of so much of what was or would have been the person's pensionable earnings immediately before the pension became or would have become 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 person during the period of 12 months ending with the day the employment ceased, and
 - (ii) formed, or would have formed, part of the person's pensionable earnings.”.

Amendment of regulation 4

46.—(1) Regulation 4 (Scale of benefits)(**51**) is amended as provided by paragraphs (2) and (3).

(2) In sub-paragraph (a) of paragraph (6)—

(a) for paragraph (i), substitute—

“(i) reduction in the amount of that pension under regulation 92 or 93 of the 1995 Regulations, regulation 129, 130, 253 or 254 of the 2008 Regulations or paragraph 11 or 12 of Schedule 3 to the 2015 Regulations (all of which deal with offset and loss of rights to benefits);”;

(b) for paragraph (ii), substitute—

“(ii) reduction in the amount of that pension under regulation 13A(7), 17A or 49(5) of the 1995 Regulations, regulation 58, 59, 185 or 186 of the 2008 Regulations or regulation 76 or 108 of the 2015 Regulations (all of which deal with exchanging a pension for a lump sum including in cases of serious ill health);”;

(c) for paragraph (iv), substitute—

“(iv) reduction in the amount of that pension under paragraph 13(b) of regulation 89A of the 1995 Regulations, paragraph (10)(b) of regulations 131 or 255 of the 2008 Regulations or paragraph 16 of Schedule 3 to the 2015 Regulations (all of which deal with the deduction of tax);”.

(51) Regulation 4 as amended by [S.R. 2008 No.130](#), regulation 4(3); [S.R. 2008 No.350](#), regulation 3(5); [S.R. 2009 No. 65](#), regulation 85; [S.R. 2009 No.188](#), regulation 82 and [S.R. 2013 No.141](#), regulation 5

- (3) After sub-paragraph (b) of paragraph (10)(52), add—
- “(c) in respect of a person who is or is eligible to be a member of the scheme set out in the 2015 Regulations,—
- (i) the person’s state pension age, or
- (ii) 65, if that is higher.”.

Amendment of regulation 8

47. In paragraph (6) of regulation 9 (Child’s allowance)(53), for “or the 2008 Regulations” substitute “, the 2008 Regulations or the 2015 Regulations”.

PART 5

Amendment of the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999

General

48. The Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999(54) are amended as provided by regulations 49 to 59.

Amendment of regulation 2

- 49.—(1) Regulation 2 (Interpretation) is amended as provided by paragraphs (2) to (4).
- (2) In paragraph (1)—
- (a) after the definition of “the 2008 Regulations” insert—
- ““the 2009 Regulations” means the Registered Pension Schemes (Authorised Payments) Regulations 2009(55);
- “the 2014 Act” means the Taxation of Pensions Act 2014(56);
- “the 2015 Regulations” means the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015(57);”;
- (b) in the definition of “child”(58)—
- (i) at the end of paragraph (a), omit “or”;
- (ii) at the end of paragraph (b), add—
- “or
- (c) a child’s pension under regulation 120 of the 2015 Regulations;”;
- (c) in the definition of “date of retirement”(59),—
- (i) at the end of paragraph (a), omit “or”;

(52) Sub-paragraph (10) was inserted by S.R. 2009 No.350 regulation 3(5)(c)

(53) Regulation 9 as amended by S.R. 2005 No.533, regulation 4(3) and S.R. 2008 No.350, regulation 3(7)

(54) 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

(55) S.I. 2009/1171

(56) 2014 (c.30)

(57) S.R. 2015 No.120

(58) The definition of “child” was last substituted by S.R. 2008 No.350 regulation 2(2)(b)

(59) The definition of “date of retirement” was last substituted by S.R. 2008 No.350 regulation 2(2)(b)

- (ii) at the end of paragraph (b), add—
 - “(c) regulations 72, 78, 80, 81, 83, 89 and 93 of the 2015 Regulations; or
 - (d) in the case of a benefit referred to in regulation 11(1)(d), a commencement date that the participator requests and that is on, or after, the participator’s normal minimum age: for these purposes, normal minimum pension age has the meaning given in section 279(1) of the 2004 Act.”;
 - (d) at the end of paragraph (c)(ii) of the definition of “dependant”(60), add—
 - “or
 - (iii) regulation 50 of the 2015 Regulations;”;
 - (e) for the definition of “HPSS Superannuation Scheme”(61), substitute—
 - ““HPSS Superannuation Scheme” means the Health and Social Care Pension Scheme, the rules of which are set out in the 1995 Regulations, the 2008 Regulations or the 2015 Regulations;”;
 - (f) for the definition of “normal benefit age”, substitute—
 - ““normal benefit age”, in relation to the AVC scheme, means—
 - (a) in the case of a person who was a member of the HPSS Superannuation Scheme governed by the 1995 regulations at the date at which the person’s election under regulation 3 took effect, the age of 60;
 - (b) in the case of a person who was a member of the HPSS Superannuation Scheme governed by the 2008 Regulations at the date at which the person’s election under regulation 3 took effect, the age of 65;
 - (c) in the case of a person who was a member of the HPSS Superannuation Scheme governed by the 2015 Regulations at the date at which the person’s election under regulation 3 took effect—
 - (i) the person’s state pension age, or if higher,
 - (ii) the age of 65;”;
 - (g) in paragraph (a) of the definition of “participator”, for “11(3)” substitute “11”;
 - (h) after paragraph (b) in the definition of “retirement”(62), add—
 - “(c) the 2015 Regulations;”;
 - (i) for the definition of “superannuable employment”, substitute—
 - ““superannuable employment” means employment in respect of which a person contributes to the HPSS Superannuation Scheme, or other such employment as the Department may approve for the purposes of a direction under Article 12 of the Superannuation (Northern Ireland) Order 1972(63) or a determination under section 25(5) of the Public Service Pensions Act (Northern Ireland) 2014(64);”;
 - (j) after paragraph (b) in the definition of “superannuable service”(65), add—
 - “(c) regulation 20 of the 2015 Regulations;”.
- (3) After paragraph (1), insert—

(60) The definition of “dependent” was last substituted by [S.R. 2008 No.350](#) regulation 2(2)(b)

(61) The definition of “HPSS Superannuation Scheme” was last substituted by [S.R. 2008 No.350](#) regulation 2(2)(b)

(62) The definition of “retirement” was last substituted by [S.R. 2008 No.250](#) regulation 2(2)(b)

(63) [S.I. 1972/1073 \(N.I. 10\)](#)

(64) [2014 c.2](#)

(65) The definition of “superannuable service” was inserted by [S.R. 2008 No.250](#) regulation 2(2)(b)

“(1A) A person is a nominated partner in relation to a contributor if the person and the contributor—

- (a) have jointly made and signed a declaration in such form as the Department requires,
- (b) are living together in an exclusive relationship as if they were husband and wife or civil partners,
- (c) are not prevented from marrying or forming a civil partnership.

(1B) A person is a surviving nominated partner in relation to a contributor if—

- (a) the person and the contributor jointly made and signed a declaration in such form as the Department requires that remains effective at the member’s death, and
- (b) the person satisfies the Department that for a continuous period of 2 years ending with the member’s death—
 - (i) the person and the member were living together in an exclusive relationship as if they were husband and wife or civil partners,
 - (ii) the person and the member were not prevented from marrying or forming a civil partnership, and
 - (iii) the person was financially dependent on the member or the person and the member were financially interdependent.

(1C) A declaration for the purposes of paragraph (1A)(a) or (1B)(a) ceases to have effect if—

- (a) it is revoked by the contributor or other person by a signed notice in writing to the Department in such form as the Department may require or is willing to accept,
- (b) the contributor makes a further declaration for the purpose of those paragraphs, or
- (c) the contributor or the person marries or forms a civil partnership.”

(4) In paragraph (2)(66), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.

Amendment of regulation 3

50.—(1) Regulation 3 (Making and acceptance of elections)(67) is amended as provided by paragraphs (2) to (5).

(2) In paragraph (1)—

- (a) in sub-paragraph (a), for “an annuity or a pension commencement lump sum and an annuity payable on retirement” substitute “one or more of the benefits referred to in regulation 11”;
- (b) omit “Paragraph (1)(a) is subject to regulation 11(1A).”.

(3) Omit sub-paragraph (b) of paragraph (3).

(4) After paragraph (6A), insert—

“(6B) A person whose membership of the HPSS Superannuation Scheme is governed by the 2015 Regulations and who is in pensionable employment may, upon attaining normal benefit age—

- (a) where contributions have been paid for the purposes of paragraph (1)(b), elect for further contributions to be paid for 12 months beyond the attainment of normal benefit age birthday, and

(66) Paragraph (2) was last amended by [S.R. 2008 No.350](#) regulation 2(3)

(67) Regulation 3 as amended by [S.R. 2002 No.129](#), regulation 4; [S.R. 2005 No.154](#), regulation 4; [S.R. 2006 No.410](#), regulation 21 and [S.R. 2008 No.350](#), regulation 2(4)

- (b) continue to elect annually for further contributions to be paid provided that person remains in pensionable employment.
- (6C) Paragraph (6B) is subject to—
 - (a) an election referred to in that paragraph being permitted under the arrangement that the person has with an authorised provider;
 - (b) paragraph (5)(b);
 - (c) regulation 4(4).”.
- (5) In paragraph (7), for “(1) or (6)” substitute “(1), (6), (6A) or (6B)”.

Amendment of regulation 4

51.—(1) Regulation 4 (Payment and amount of additional voluntary contributions)(**68**) is amended as provided by paragraphs (2) and (3).

- (2) In paragraph (3)(**69**)—
 - (a) omit sub-paragraph (a);
 - (b) in sub-paragraph (b), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.
- (3) In the definitions of “employer” and “salary” in paragraph (3A)(**70**), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.

Substitution of regulation 6

52. For regulation 6 (Circumstances in which elections cease to have effect), substitute—

“Circumstances in which elections cease to have effect

- 6.**—(1) An election shall cease to have effect where a contributor—
- (a) leaves pensionable employment;
 - (b) ceases to be in pensionable employment by virtue of an election under regulation 9 of the 1995 Regulations, regulation 25 or 157 of the 2008 Regulations or regulation 15(2) of the 2015 Regulations (all of which deal with opting-out of the scheme in question) as the case may be; or
 - (c) who, at the time of making the election, was subject to the 1995 Regulations, the 2008 Regulations or 2015 Regulations (as the case may be) and who receives payment of all of their benefits under those particular Regulations.

This is subject to paragraphs (2) and (3).

(2) A contributor whose election ceases in accordance with paragraph (1)(c) is not prevented from making a further election that complies with regulation 3.

(3) Where a contributor gives written notice to the Department for the purposes specified in regulation 5(1)(c), an election—

- (a) does not cease to have effect, and
- (b) continues to be subject to the normal benefit age applicable at the time it was made.

(**68**) Regulation 4 as amended by [S.R. 2002 No.129](#), regulation 5; [S.R. 2006 No.410](#), regulation 22 and [S.R. 2008 No.350](#), regulation 2(5)

(**69**) Paragraph (3) was substituted by [S.R. 2006 No.410](#) regulation 22 and amended by [S.R. 2008 No.350](#) regulation 2(5)(a)

(**70**) Paragraph (3A) was inserted by [S.R. 2008 No.350](#) regulation 2(5)(b)

This does not apply where sub-paragraphs (a) or (c) of paragraph (1) apply.”.

Amendment of regulation 10

53.—(1) Regulation 10 (Outward transfers)(**71**) is amended as provided by paragraphs (2) and (3).

(2) For paragraph (4)(**72**), substitute—

“(4) If the Department is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 53 of the 1995 Regulations Member’s right to transfer or buy-out), the Department must do so in accordance with the time limit specified in regulation 54 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).

(4A) If the Department is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 93 or 220 of the 2008 Regulations (rights to transfer value payments), the Department must do so in accordance with the time limit specified in, as the case may be, regulation 96 or 223 of those Regulations as if the reference in regulation 96 (or as the case may be) 223 to an application were a reference to a notice referred to in paragraph (1).

(4B) If the Department is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 133 of the 2015 Regulations (rights to transfer value payment), the Department must do so in accordance with the time limit specified in regulation 136 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).”.

(3) In paragraph (ii) of sub-paragraph (b) of paragraph (8)(**73**), for “or regulation 106 or 233 of the 2008 Regulations” substitute “, regulation 106 or 233 of the 2008 Regulations or regulation 146 of the 2015 Regulations”.

Substitution of regulation 11

54. For regulation 11 (Retirement and dependants’ pensions) substitute—

“Retirement and dependants’ benefits

11.—(1) A participator may apply some or all of the proceeds of an investment made under regulation 7(1), 8(2) or 9(4) to arrange with an insurer for—

- (a) payment of a lifetime annuity;
- (b) payment of a lifetime annuity and a pension commencement lump sum;
- (c) a lump sum commutation payment that—
 - (i) reflects the value of the benefits referred to in paragraph (1)(a) or (b), and
 - (ii) meets the requirements of regulations 11 and 12 of the 2009 Regulations;
- (d) as from the 6th April 2015, any payment to the participator or a dependant of the participator, that complies with the requirements of the 2014 Act.

(71) Regulation 10 was substituted by S.R. 2005 No.154, regulation 6; amended by S.R. 2006 No.410, regulation 25 and S.R. 2008 No.350, regulation 2(8)

(72) Paragraph (4) was last substituted by S.R. 2008 No.350 regulation 2(8)(a)

(73) Paragraph(8)(b)(ii) was substituted by S.R. 2008 No.350 regulation 2(8)(b)

This is subject to paragraphs (10) to (13) and regulation 15(10) and (11).

(2) An authorised provider selected by the Department, must provide a participator with an option to receive benefits under paragraph 1(a) to (c).

This is subject to paragraph (3) and (4).

(3) Any annuity payable in accordance with paragraph (1)(a) or (b) must—

- (a) be incapable, in whole or in part, of surrender, assignment or commutation;
- (b) commence not earlier than the participator's date of retirement for the purposes of, as the case may be, the 1995 Regulations, the 2008 Regulations or 2015 Regulations;
- (c) be payable to the participator for life;

(4) Any dependant's pension which is payable in respect of a participator is payable only on the death of the participator after the participator's retirement and is payable to the dependant for life: this is subject to paragraph (6).

(5) A lump sum commutation payment referred to in paragraph (1)(c) may be paid in respect of benefits payable under paragraph (1)(a), (b) or (d).

(6) In the case of a person who is a child to whom—

- (a) Part III of the 1995 Regulations (Child allowance) applies;
- (b) regulation 75 or 202 of the 2008 Regulations applies (Meaning of dependant child), or
- (c) regulation 121 of the 2015 Regulations (Eligible child) applies,

a pension referred to in paragraph (4) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(7) An authorised provider selected by the Department, in addition to providing a participator with benefits options required under paragraph (2), may from the 6th April 2015 provide a participator or a participator's dependant with alternative benefit options under paragraph (1)(d).

(8) A participator must, not earlier than 3 months before the date from which the participator wishes those benefits under the Regulations to be provided, make a benefits election to the Department specifying—

- (a) whether and which benefits are to be provided under paragraph (3) or, alternatively, paragraph (7);
- (b) the authorised provider who is to provide each benefit;
- (c) for whom, if anyone, a dependant's benefit is to be provided;
- (d) if more than one benefit is to be provided; either—
 - (i) the proportion of the amount secured by the total investments made under regulation 7(1), 8(2) or 9(4) that is to be applied to the purchase or arrangement of each of them; or
 - (ii) the dependants' benefits to be provided expressed as a percentage of the participator's benefits;
- (e) in respect of every annuity to be provided—
 - (i) the annual rate of the annuity;
 - (ii) whether it is to be payable for life or for a fixed period;

- (iii) whether its rate is to be fixed or vary in accordance with the Index or increase yearly by a specified percentage or (if lower) increase by the increase in the Index for the year in question;
 - (iv) as from the 6th April 2015, whether the rate may reduce;
 - (f) in the case of a participator who chooses a life-time annuity referred to in paragraph (1)(a) or (b) and who dies within the period of 5 years beginning with the date on which the annuity commences, whether, if the annuity had continued at the rate in force at the time of the participator's death, a lump sum is to be paid in accordance with regulation 15(3): the lump sum referred to in this sub-paragraph is a lump sum equal to the balance that would have been payable during the remainder of that period.
- (9) More than one benefits election may be made under paragraph (8) and each such election must—
- (a) be in writing, and
 - (b) contain such information as the Department requests.
- (10) Upon receipt of a notice of election under paragraph (8), the Department must, as soon as reasonably practicable, realise the investments made under regulations 7(1), 8(2) or 9(4) and apply the proceeds in the manner specified in it.
- (11) Where a participator dies before retirement or after retirement but before the benefits under this regulation are acquired, the investments made under regulation 7(1), 8(2) or 9(4) must be realised and are, subject to any limit imposed by regulation 13, payable as a lump sum in accordance with regulation 15(3).
- (12) The Department may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of benefits under these Regulations from an insurer in the form as appear to the Department to be suitable where the conditions in paragraph (13) are satisfied.
- (13) Those conditions are—
- (a) the participator's retirement date falls on or after 1st December 1999; and
 - (b) the participator has attained the age of 75 and has not given a notice of election under paragraph (8) before doing so.
- (14) Paragraph (12) applies notwithstanding that benefits are payable to the participator under—
- (a) Part III or regulation 49 of the 1995 regulations (Benefits for members and preserved pensions);
 - (b) regulation 45, 48, 49, 52, 54, 55, 176, 179, 180, 182, or 184 of the 2008 Regulations (Normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
 - (c) regulation 72, 78, 80, 81, 83, 89 or 93 of the 2015 Regulations (age retirement, early retirement, premature retirement, partial retirement and ill-health pensions)."

Amendment of regulation 14

55. In sub-paragraph (b) of paragraph (1) of regulation 14 (Repayment of investments in certain cases)(74)—

(74) Regulation 14 as amended by [S.R. 2006 No.410](#), regulation 29 and [S.R. 2008 No.350](#), regulation 2(10)

- (a) at the end of paragraph (i), omit “or”;
- (b) at the end of paragraph (ii), insert—
 - “or
 - (iii) regulation 39 of the 2015 Regulations (eligibility for refund)”.

Amendment of regulation 15

56.—(1) Regulation 15 (Payments by the Department)(**75**) is amended as provided by paragraphs (2) to (8).

(2) For paragraph (1)(**76**), substitute—

“(1) Where an authorised provider or a selected authorised provider fails to pay a benefit referred to in regulation 11(1) or a lump sum benefit referred to in regulation 12, the Department is liable to pay that amount.”.

(3) For paragraph (3), substitute—

“(3) Lump sums payable as mentioned in regulation 11(8)(f) and (11) and regulation 12 or paragraph 3(2), 8 or 9 of Schedule 2 shall be paid—

- (a) to the deceased’s spouse, nominated partner or civil partner; or
- (b) to the deceased’s personal representatives if—
 - (i) there is no spouse, nominated partner or civil partner, or
 - (ii) a notice has been given in accordance with any of the provisions referred to in paragraph (3A) that the spouse, nominated partner or civil partner is not to receive the payment.”.

(4) After paragraph (3), insert—

“(3A) The provisions referred to in paragraph (3)(b) are—

- (a) regulation 17 of the 1995 Regulations (Payment of lump sum);
- (b) regulation 87 or 214 of the 2008 Regulations (Payment of lump sums or pensions on death);
- (c) regulation 111 of the 2015 Regulations (Lump sum on death);
- (d) paragraph 11 of Schedule 2.”.

(5) For paragraph (4), substitute—

“(4) Lump sums payable under regulation 11(1)(b), (c) and (d) and regulation 14(1) must be paid to the participator.”.

(6) In paragraph (9), for “regulations 12” to “early retirement pensions)” substitute “the provisions referred to in paragraph (9A)”.

(7) After paragraph (9), insert—

“(9A) Those provisions are—

- (a) regulation 12 to 16 or 49 of the 1995 Regulations (which deal with benefits for members and preserved pension);
- (b) regulation 45, 48, 49, 52, 54, 55, 176, 179, 180, 182, or 184 of the 2008 Regulations (Normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions);

(75) Regulation 15 as amended by [S.R. 2002 No.129](#), regulation 10; [S.R. 2004 No.104](#), Schedule 2 regulation 4; [S.R. 2005 No.533](#), regulation 5(3); [S.R. 2006 No.410](#), regulation 30; [S.R. 2008 No.350](#), regulation 2(11); [S.R. 2010 No.286](#), regulation 55(5) and [S.R. 2013 No.259](#), regulation 53

(76) Paragraph (1) was last substituted by [S.R.2010 No.286](#) regulation 55(5)

- (c) regulation 72, 78, 80, 81, 83, 89 or 93 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”.
- (8) In paragraph (10) after sub-paragraph (b), insert—
- “(c) regulation 108 of the 2015 Regulations (Option for members in serious ill-health to exchange pension for lump sum),”.

Substitution of regulation 19

57. For regulation 19 (Offset for crime, negligence or fraud), substitute—

“Offset for crime, negligence or fraud

19. Where, on or after the date on which these Regulations come into operation—
- (a) the circumstances set out in any of the following provisions have occurred—
- (i) regulation 92 of the 1995 Regulations (Offset for crime, negligence or fraud);
- (ii) regulation 129 or 253 of the 2008 Regulations (Reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
- (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (Offset of benefits); and
- (b) there has been a loss to public funds,

the Department may, in relation to benefits which arise by virtue of the employer’s contributions, reduce the amount of any benefit payable to or in respect of a person under these Regulations, to the extent set out, and subject to the conditions specified in whichever provision referred to in paragraph (a) applies.”.

Substitution of regulation 20

58. For regulation 20 (Loss of rights to benefits), substitute—

“Loss of rights to benefits

20.—(1) Where paragraph (2) applies, the Department may direct that all or any part of any rights to benefit a person has under these Regulations and which arise by virtue of an employer’s contributions paid on or after the date on which these Regulations come into operation, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into operation—

- (a) that person commits and is convicted of an offence referred to in—
- (i) regulation 93 of the 1995 Regulations (Loss of rights to benefits);
- (ii) regulation 130 or 254 of the 2008 Regulations (Forfeiture of rights to benefits), or
- (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (Forfeiture of rights to benefits), and
- (b) the circumstances are such that a direction may be made by the Department under whichever of those provisions applies.”.

Amendment of Schedule 2

59.—(1) Schedule 2 (Pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership)(77) is amended as provided by paragraphs (2) to (6).

(2) In paragraph 1 (Discharge of liability in respect of pension credit)—

(a) for paragraph (b) of sub-paragraph (5), substitute—

“(b) any dependant’s pension which is payable under it is payable only on the death of the pension credit member after that member has reached normal benefit age and is payable to the dependant for life: this is subject to paragraph (6).”;

(b) after sub-paragraph (5), add—

“(6) In the case of a person who is a child to whom—

- (a) regulations 32 to 38 of the 1995 Regulations (Child allowance) applies;
- (b) regulation 75 or 202 of the 2008 Regulations applies (Meaning of dependant child), or
- (c) regulation 121 of the 2015 Regulations (Eligible child) applies,
a pension referred to in paragraph (5)(b) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(7) Sub-paragraph (5) does not apply where, in accordance with sub-paragraph (5C) of paragraph 4, a pension credit member elects to be provided with alternative benefits referred to in sub-paragraph (5B) of that paragraph.”.

(3) In paragraph 4 (pension credit benefit)—

(a) in sub-paragraph (4), for “this paragraph” substitute “sub-paragraph (1) and any alternative benefit referred to in sub-paragraph (5A)”;

(b) after sub-paragraph (5), insert—

“(5A) An authorised provider selected by the Department must—

- (a) must provide a pension credit member with an option to receive the benefits referred to in sub-paragraph (5)(a), (aa) and (b); and
- (b) may, as from 6th April 2015, provide such a member with an option to receive the alternative benefits referred to in sub-paragraph (5B).

(5B) Those alternative benefits are benefits that are equivalent in value to the benefits referred to in sub-paragraph (5)(a), (aa) and (b) and which comply with the requirements of the 2014 Act.

(5C) A member who wishes to be provided with such alternative benefits must elect to do so by giving the Department notice in writing not earlier than 3 months before attaining normal benefit age.”;

(c) in sub-paragraph (7)—

(i) after “sub-paragraph (5)” insert “, or as the case may be, sub-paragraph (5C)”;

(ii) after paragraph (b) insert—

“(c) where sub-paragraph (5C) applies, pay the alternative benefits the pension credit member has elected to be provided with,”;

(d) for sub-paragraphs (8) and (9), substitute—

(77) Schedule 2 was inserted by S.R. 2004 No.104, regulation 6 and amended by S.R. 2005 No.533, regulation 5(4); S.R. 2006 No.410, regulation 34; S.R. 2008 No.350, regulation 2(15) and S.R. 2010 No.286, regulation 55(6)

“(8) Where the conditions in sub-paragraph (9) are satisfied, the Department may realise the investments made under paragraph 2 and apply the proceeds to the purchase of benefits under these Regulations from an insurer that the Department considers—

- (a) suitable;
- (b) will satisfy the requirements of regulations 12 to 14 of the Pension Sharing (Pension Credit Benefit) Regulations 2000⁽⁷⁸⁾;
- (c) will comply with the requirements of the 2014 Act, and
- (d) will fully discharge its liability for payment of benefits under these Regulations.

(9) Those conditions are that the pension credit member has—

- (a) attained normal benefit age on, or after, 1st May 2001; and
- (b) attained the age of 75 and not given notice of an election under sub-paragraph (5) before doing so.

(10) Paragraph (8) applies notwithstanding that the benefits are payable to a pension credit member by virtue of that member being a member of the HPSS Superannuation Scheme under—

- (a) Part III or regulation 49 of the 1995 Regulations (benefits for members and preserved pension);
- (b) regulation 45, 48, 49, 52, 54, 55, 176, 179, 180, 182, or 184 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
- (c) regulation 72, 78, 80, 81, 83, 89 or 93 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”.

(4) For paragraph (b)⁽⁷⁹⁾ of sub-paragraph (2) of paragraph 7 (Commutation of the whole of pension credit at normal benefit age), substitute—

“(b) the total benefits payable meet the requirements of regulation 12 of the 2009 Regulations.”.

(5) For paragraph 13 (Offset for crime, negligence or fraud) substitute—

“Offset for crime, negligence or fraud

13.—(1) This paragraph applies in relation to pension credit benefit which arises by virtue of pension credit rights which are derived from an employer’s contributions paid on or after the date on which the AVC Regulations came into operation in respect of the relevant participator.

(2) Where paragraph (3) applies, the Department may reduce the amount of any pension credit benefit payable to or in respect of a pension credit member under this Schedule to the extent set out, and subject to the conditions specified, in whichever of the provisions referred to in that paragraph applies.

(3) This paragraph applies where on or after the date these Regulations come into operation—

- (a) in respect of a relevant pension credit member the circumstances set out in whichever of the following provisions applies have occurred—
 - (i) regulation 92 of the 1995 Regulations (Offset for crime, negligence or fraud);

⁽⁷⁸⁾ S.I. 2000/1054

⁽⁷⁹⁾ Paragraph (b) of sub-paragraph (2) was last substituted by S.R. 2008 No.350, regulation 2(15)(c)

- (ii) regulation 129 or 253 of the 2008 Regulations (Reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
- (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (Offset of benefits), and
- (b) there has been a loss to public funds.
- (4) In this paragraph—
 - “relevant pension credit member” means a pension credit member who is also a member of the HPSS Superannuation Scheme;
 - “relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.
- (6) For paragraph 14 (Loss of rights to benefits), substitute—

“Loss of rights to benefits

14.—(1) Where paragraph (2) applies, the Department may direct that all or any part of any rights to pension credit benefit a pension credit member has under this Schedule and which arise by virtue of an employer’s contributions paid on or after the date on which the AVC Regulations come into operation in respect of a relevant participator, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into operation—

- (a) that pension credit member commits and is convicted of an offence referred to in—
 - (i) regulation 93 of the 1995 Regulations (Loss of rights to benefits);
 - (ii) regulation 130 or 254 of the 2008 Regulations (Forfeiture of rights to benefits), or
 - (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (Forfeiture of rights to benefits), and
- (b) the circumstances are such that a direction may be made by the Department under whichever of those provisions applies.
- (3) In this paragraph “relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.

PART 6

Miscellaneous

Option to persons detrimentally affected by these Regulations

60.—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who, having served in an employment or office, service in which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, ceased to serve therein before these Regulations came into operation.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Department within six months of the coming into operation of these Regulations or such longer period as the Department may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into operation of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

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