

EXPLANATORY MEMORANDUM TO

The Health and Social Care Pensions (Abatement) (No 2) Regulations (Northern Ireland) 2022

2022 No. 245

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health (DoH) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

The Statutory Rule is made under Articles 12(1), (2) and (3) and 14(1) and (2) of , and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 and sections 1(1) and (2)(e), 3(1) to (3), and 18(5) of, and paragraph 5 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014(1) and is subject to the negative resolution procedures.

2. Purpose

2.1. The Statutory Rule will extend the current suspension of pension abatement for the HSC Scheme. This is currently suspended due to the Covid situation and pressure on the health service and, due to ongoing pressures in the service, it is proposed to extend the suspension further.

3. Policy Background – What is being done and why

3.1 A key component of the government's response to the coronavirus (COVID-19) pandemic were measures to boost the available HSC workforce. Accordingly, section 47 of the [Coronavirus Act 2020](#) suspended rules in the HSC Pension Scheme to allow retired and partially retired staff to return to work or increase their working commitments without having their pension benefits suspended.

3.2 Section 47 of the Coronavirus Act 2020 expired on 24 March 2022. Given the emergence of the Omicron variant the Department of Health, along with their counterparts across the UK, extended the suspension of the restrictions on return to work until 31 October 2022.

3.3 Given the ongoing pressures within the health service these regulations are intended to continue the easing of the restrictions via temporary modifications to the HSC Pension Scheme regulations. These changes would take effect from 1 November 2022.

⁽¹⁾ 2014 c.2 (N.I.) section 3 was amended by section 94(11) to (14) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7)

3.4 This applies to 3 rules across the schemes which limit the amount that some retired staff can work in specific circumstances:-

- The 16 hour rule. This rule requires staff who retire and return from the 1995 Section of the Scheme to work 16 hours per week or less in the first month after retirement. Where staff work more than this limit their pension benefits are temporarily suspended until their working commitments are reduced,
- Abatement of Special Class Status members, including Mental Health Officers, who are eligible to retire from the 1995 Section at age 55 instead of 60 without an actuarial reduction in their pension. Abatement applies where staff return to work before age 60 and their pension plus salary exceeds their pre-retirement income.
- Abatement of 2008 Section and 2015 Scheme - members who draw down a portion of their benefits and continue working (partial retirement). Abatement requires them to reduce their pensionable pay by 10% upon each election to draw down benefits.

3.1. These provisions will be extended as follows:

- The extension of the 16 hour rule will be extended to 31 March 2024. This will allow time for consideration to be given to permanently removing the rule at that point.
- The suspension of abatement of Special Class Status members will be extended to 31 March 2025 due to ongoing concerns regarding capacity.
- The abatement of those taking partial retirement will be extended to 31 March 2023.

4. Consultation

4.1. The changes introduced by this statutory rule have been subject to statutory consultation which commenced on the 1 September 2022 and ended on the 23 September 2022.

4.2. Among those consulted were HSC Trade Unions representatives; All HSC Employers; Scheme Advisory Board; Pension Board; DoF.

4.3. 6 responses were received, 2 from individuals, 3 from member representative organisations and the other from the HSC Pension Scheme Advisory Board.

Respondents were supportive of continuing the easements, however, they also argued that the abatements rules in the HSC Pension Scheme should be removed entirely. The consultation response document is available on the Department of Health website at [The Health and Social Care Pensions \(Abatement\) \(Amendment\) Regulations \(Northern Ireland\) 2022 | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/pensions/abatement-amendment-regulations-northern-ireland-2022)

5. Equality Impact

5.1. This is a temporary extension during the continuing health service pressures. No long term changes to abatement policy are included.

6. Regulatory Impact

6.1. A regulatory impact assessment has not been produced for this rule as it is not anticipated that there will be any adverse impact on business, charities social economy or voluntary bodies.

7. Financial Implications

7.1. There are no significant funding implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. Consideration has been given to the human rights implications of these regulations. They are considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. None

10. Parity or Replicatory Measure

10.1. Similar legislation has been introduced for the NHS Pension Schemes in England & Wales.

11. Additional Information

11.1. Not applicable.