

EXPLANATORY MEMORANDUM TO

The Health and Social Care Pension Schemes (Amendment No.2) Regulations (Northern Ireland) 2024

S.R. 2024 No. 117

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.
- 1.2. 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), 2(1) and 3(1) to (3) of, and paragraph 5 of Schedule 2 and Schedule 3 to, to (4) 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 introduce changes to the member contribution structure, changes to abatement provisions for special class status (SCS) members, minor amendments regarding partial retirement and consequential amendments relating to the removal of the Lifetime Allowance by the Finance Act 2024 with effect from 1 April 2024.
- 2.2. This statutory rule will also make small minor changes to the wording of the regulations. These minor amendments do not change the policy intent of the regulations and correct pre-existing errors that have occurred over a period that the department is now amending to ensure accuracy.

3. Policy Background – What is being done and why

- 3.1. There are two HSC Pension Schemes: the reformed 2015 Scheme and the older, closed scheme which is divided into the 1995 and 2008 Sections. The scheme is contributory. Members and their employer are required to pay towards the cost of benefits they build up in the scheme. An actuarial valuation is conducted every 4 years to ensure the level of contributions made by members and employers meet the full cost of their pension rights as they accrue them.

Changes to member contributions

- 3.2. From the 1 April 2024 changes to the member contribution's structure will include implementation of phase 2 of an updated member contribution structure as agreed during consultation in 2022 – phase 1 was introduced by SR 2022/244. In addition the regulations will introduce, futureproofing of the

⁽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)

member contribution structure, and changes to the pensionability of overtime up to whole time for members who work part time.

Improving the process of indexing the contribution thresholds

- 3.3. In successive years, the member contribution tier thresholds in the HSC Pension Scheme have been increased in line with the value of the AfC pay award for Northern Ireland. The purpose of this is to avoid an increase to pensionable pay due to the annual pay award unintentionally resulting in a take-home pay reduction. Under the current process, the department must conduct a public consultation process and lay a statutory rule between the AfC pay award being agreed upon and the start of the award being paid to staff. As pay deals are often agreed late in the financial year, this creates a clear risk that the threshold uplifts cannot be delivered in time to implement the award.
- 3.4. The department has committed to considering how this process for uplifting thresholds in line with the pay award can be streamlined or improved in future years. An indexing solution would mean that contribution thresholds could be changed without the need to directly amend scheme regulations. The solution is to index contribution thresholds in line with the rate of the CPI from the previous September. Uplifting thresholds in line with CPI has the benefit of being somewhat more straightforward than the current approach because the uplift would be applied in April each year based on the rate of CPI from the previous September. This provides a much greater period of time between the value of the index becoming known and it being applied to thresholds, compared to the current process of applying an uplift in line with the value of the AfC award for Northern Ireland as quickly as possible after the award is agreed.

Abatement for pensions for special class members who return to work

- 3.5. For most staff, the HSC Pension Scheme does not place any limits on the amount that staff can work should they return after claiming their benefits. However, abatement has historically applied to special class status (SCS) members who return to work between age 55 and 60 in receipt of an unreduced pension. The normal pension age (NPA) for members of the 1995 Section is 60. However, some members are eligible to retire earlier if they hold SCS. SCS is a preserved right awarded to certain professions in the 1995 Section, which, subject to qualifying criteria being met, allows a member to retire at 55 instead of 60 without an actuarial reduction in benefits that would normally apply when claiming benefits early. It was withdrawn for new entrants from 6 March 1995 as part of the HSC Pension Scheme restructuring at that time. Historically, under normal arrangements SCS members who return to work between age 55 and 60 are subject to abatement. This means that their pension plus salary cannot exceed their pre-retirement income, and their pension is reduced if it does.
- 3.6. The response to the COVID-19 pandemic placed unprecedented pressure on the HSC workforce. To help boost capacity on the frontline, the abatement rules were relaxed to encourage retired and partially retired staff to return to work or increase their working commitments. The department then regulated and

extended this abatement through the Health and Social Care Pensions (Abatement) Regulations (Northern Ireland) 2022 and the Health and Social Care Pensions (Abatement) (No 2) Regulations (Northern Ireland) 2022. SCS abatement is currently suspended until 31 March 2025.

- 3.7. The department is committed to supporting retention measures and the HSC Pension Scheme 1995 regulations will be amended to permanently remove SCS abatement from scheme regulations.

Miscellaneous and consequential amendments

- 3.8. Several miscellaneous and consequential amendments were proposed as part of the consultation.
- 3.9. The proposals included changes to the scheme regulations to facilitate the abolition of the lifetime allowance to ensure compliance with the Finance Act 2024, extending partial retirement to members of the 1995 Section who have breached the maximum service limits and to update the partial retirement regulations that where a member enters into a salary sacrifice arrangement, as this does not constitute an eligible change to their terms of employment for the purposes of taking partial retirement.
- 3.10. Also, a small number of minor changes to the wording of the regulations has been updated which do not change the policy intent of the regulations, but correct pre-existing errors that have occurred over a period that the department is now amending to ensure accuracy.

4. Consultation

4.1 Consultation with stakeholders, on the proposed amendments, published on 13 November and closed on 22 January 2024.

4.2 In total 7 responses were received as follows:-

- 4 Scheme Members
- British Medical Association (BMA)
- British Dental Association (BDA)
- Royal College of Nursing (RCN)

4.3 Overall respondents were in support of the proposals.

5. Equality Impact

- 5.1. An Equality Screening/Impact Assessment (EQIA) and Rural Needs Impact Assessment were carried out by the Department and have been published on the Departments website.

6. Regulatory Impact

6.1. 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 financial implications for the Department.

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 and Scotland.

11. Additional Information

11.1. Not applicable.