
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 217

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Amendment) Regulations (Northern Ireland) 1997**

Made - - - - *17th April 1997*

Coming into operation *16th June 1997*

The Department of Health and Social Services, in exercise of the powers conferred by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(1), and of all other powers enabling it in that behalf, after consulting with such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate as required by Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel for Northern Ireland, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1997. These Regulations come into operation on 16th June 1997.

Interpretation

2. In these Regulations:—

“the principal Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(2);

“the Taxes Act” means the Income and Corporation Taxes Act 1988(3).

Amendment of regulation 3 of the principal Regulations

3.—(1) After regulation 3(3) of the principal Regulations there shall be inserted the following paragraph—

“(3A) Where a member who was eligible to be a member before 1st June 1989 joins the scheme on or after that date by virtue of being a person to whom regulation 9A applies,

(1) S.I.1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(2) S.R. 1995 No. 95
(3) 1988 c. 1

any amount by which that member's superannuable pay exceeds the permitted maximum will not be ignored when calculating the amount of any contributions or benefits payable under these Regulations except in relation to a period following a break in superannuable employment on or after that date."

- (2) In regulation 3(4) of the principal Regulations—
- (a) for the words "paragraph (3)" there shall be substituted the words "paragraphs (3) and (3A)"; and
- (b) after sub-paragraph (e) there shall be added the following sub-paragraph:—
- “(f) the break is due to the member opting out of the scheme as the result of a contravention which is actionable under section 62 of the Financial Services Act 1986”(4).

Insertion of new regulation 9A of the principal Regulations

4. After regulation 9 of the principal Regulations there shall be inserted the following regulation:

“Opting into the Scheme: Mis-sold Pensions

9A.—(1) This regulation shall apply to a person who, during any period:—

- (a) was eligible to be an active member of the scheme;
- (b) opted out of the scheme under regulation 9(1) and instead made contributions to a personal pension scheme; and
- (c) has suffered loss as the result of a contravention which is actionable under section 62 of the Financial Services Act 1986.

(2) Where, at any time, a person to whom this regulation applies elects to join or rejoin the scheme under regulation 9(5), there shall, if the Department so determines, be counted as superannuable service in respect of that person a period equal to the aggregate of—

- (a) his additional period of superannuable service as approved by the Department for the purposes of regulation 62A(2)(i); and
- (b) his “transferred-out service”, if any, within the meaning of regulation 62A(5),

provided there has been paid to the Department in respect of that person a transfer payment calculated in accordance with regulation 62A.

(3) Where, at any time, a person to whom this regulation applies elects to join or rejoin the scheme under regulation 9(5) but dies in superannuable employment or becomes entitled to benefits under Part III of these Regulations before the transfer payment referred to in paragraph (2) has been paid to the Department in respect of him, paragraph (2) shall continue to apply in the case of that person.

(4) In this regulation—

“active member” means a person who is in superannuable employment under the scheme; and

“personal pension scheme” has the meaning given by section 1 of the Pension Schemes (Northern Ireland) Act 1993(5).”

(4) 1986 c. 60

(5) 1993 c. 49

Amendment of regulation 55 of the principal Regulations

5. In regulation 55(5) of the principal Regulations after the words “Subject to paragraph (7),” there shall be inserted the following words—

“except in the case of a transfer payment accepted under regulation 62A,”.

Amendment of regulation 60(3) of the principal Regulations

6.—(1) At the beginning of regulation 60(3) of the principal Regulations the word “The” shall be deleted and there shall be substituted the following words:—

“Except in the case of a person to whom regulation 9A applies, the”.

(2) In regulation 60(4) of the principal Regulations the words from “and 62” to the end shall be deleted and there shall be substituted the following words:—

“, 62 (transfers that are not made under the Public Sector Transfer Arrangements) and 62A (transfers in respect of members to whom regulation 9A applies who elect to join or rejoin the scheme) is applicable.”.

(3) After regulation 62 of the principal Regulations there shall be inserted the following regulation:—

“Transfers in respect of members to whom regulation 9A applies who elect to join or rejoin the scheme

62A.—(1) In the case of a member to whom regulation 9A applies, this regulation shall apply for the purpose of calculating the amount of the transfer payment by reference to which an additional period of superannuable service may be credited by the Department to that member.

(2) Subject to paragraphs (3) and (4) the transfer payment in respect of which an additional period of superannuable service may be credited by the Department to a member referred to in paragraph (1) shall be calculated in a manner that is consistent with the actuarial methods and assumptions used by the Department to calculate cash equivalents under regulation 55 (amount of member’s cash equivalent) in the case of transfers that are not made under the Public Sector Transfer Arrangements shall be of an amount equal to the total amount of:—

- (i) an amount which would enable the member to be credited by the scheme with an additional period of superannuable service as the Department may approve in respect of the period during which he made contributions to a personal pension scheme (“the relevant scheme”);
- (ii) the amount of the cash equivalent, if any, which the member transferred to the relevant scheme by exercising a right under regulation 54 (exercising a right to transfer or buy-out) (“the transferred rights”); and
- (iii) an amount, to be determined from time to time by the Government Actuary, which represents the income which would have been received on the amount referred to in sub-paragraph (ii) had that amount been invested during the period commencing at the end of the month in which it was paid by the scheme to the relevant scheme and ending at the end of the month in which the transfer payment was paid to the scheme by the relevant scheme.

(3) The amount, if any, payable by virtue of paragraphs (2)(ii) and (iii) shall be at least equal to the amount of the cash equivalent transfer value which would be payable by the scheme in respect of the period of transferred-out service which the transferred rights represent if the scheme were to pay a cash equivalent transfer value in respect of that service immediately after the time at which the transfer payment is paid to the scheme by the relevant scheme.

(4) In the case of a member to whom regulation 9A applies who has been credited with an additional period of superannuable service calculated as specified in regulation 62 (transfers that are not made under the Public Sector Transfer Arrangements) the Department may adjust the amount of the transfer referred to in paragraph (2) on account of the payment by reference to which that superannuable service was credited.

(5) In this regulation:—

“personal pension scheme” has the same meaning as in regulation 9A(4);

“transfer payment” means the payment payable to the scheme by the relevant scheme in respect of a member to whom regulation 9A applies who elects to join or rejoin the scheme; and

“transferred-out service” means the period of superannuable service which the member transferred-out of the scheme by exercising a right under regulation 54 (exercising a right to transfer or buy-out).”

Amendment of regulation 84 of the principal Regulations

7. In regulation 84(3) after the word “shall,” there shall be substituted the words “subject to paragraph 4, cease to be payable.”

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

17th April 1997.

J. McGrath
Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing Regulations.
Sealed with the Official Seal of the Department of Finance and Personnel on

L.S.

17th April 1997.

D. Angus
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (“the principal Regulations”).

Regulations 1 and 2 provide for citation, commencement and interpretation.

Regulation 3 makes amendments to the principal Regulations which are consequential upon the insertion of regulation 9A.

Regulation 4 inserts a new regulation 9A into the principal Regulations which makes special provision in respect of persons electing to join or rejoin the Health and Personal Social Services Superannuation Scheme (“the scheme”) who have previously opted out of the scheme as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986 (mis-sold personal pensions).

Regulation 5 makes an amendment to regulation 55 of the principal Regulations which is consequential upon the insertion of regulation 62A.

Regulation 6 makes amendments to regulation 60 of the principal Regulations and inserts a new regulation 62A into those regulations which makes provision for the manner in which the transfer payment by reference to which an additional period of superannuable service which may be credited by the scheme to persons to whom regulation 9A applies is to be calculated.

Regulation 7 amends the wording of regulation 84 of the principal Regulations.