STATUTORY RULES OF NORTHERN IRELAND

1999 No. 294

The Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999

PART II

Additional Voluntary Contributions

Making and acceptance of elections

3.—(1) Subject to paragraph (3), a person in superannuable employment may elect to pay contributions under these Regulations—

(a) for investment under regulation 7(1) to provide for an annuity payable on retirement;

(b) for investment under regulation 7(2) to provide for a lump sum death benefit.

(2) An election under paragraph (1) may relate to contributions to be paid by, or on behalf of, the contributor or contributions to be paid by the contributors employer or both.

(3) An election under paragraph (1) shall not have effect if the person making it—

(a) is on leave of absence from work or while his earnings are reduced or have ceased; or

(b) is not receiving tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation 10 of the 1995 Regulations.

(4) An election under paragraph (1) shall be made by giving written notice to the Department specifying—

(a) whether the election relates to paragraph (1)(a) or (b), or both;

(b) the amount of the contributions; and

(c) in relation to the contributions for the purpose of investment under regulation 7(1), the authorised fund or funds in which the contributions are to be invested,

and, subject to paragraph (5), shall be accepted by the Department.

(5) The Department shall not accept an election under paragraph (1)—

(a) where any limit imposed by regulation 4(3), 4(4) or 13 (limits on contributions and benefits) would be exceeded; or

(b) in the case of an election under paragraph (1)(b) to provide for a lump sum on death, unless it is satisfied that the election is made in accordance with the requirements of regulation 16(2) and at the time of making an election the person is in good health and there is no reason why his health should prevent him from making contributions.

(6) Subject to paragraph (5)(b) and regulation 4(4), where contributions are paid until the contributors 60th birthday and the contributor does not then cease to be in superannuable employment, an election may be made to pay further contributions up to the contributors 61st

birthday to provide for a lump sum death benefit; and so long as the contributor has not ceased to be in superannuable employment, further elections may be made annually in respect of subsequent years.

(7) For the purposes of paragraphs (1) and (6), an election shall have effect from the date when the Department accepts the election.

Payment and amount of additional voluntary contributions

4.—(1) Contributions under these Regulations may be made by way of weekly, monthly or quarterly payments or by way of a single payment.

(2) The contributor's employer may deduct any amount payable by the contributor from the contributors salary, and such deductions shall commence to be made from the salary in respect of the first whole pay period falling after the date the employer receives authorisation to make those deductions and shall be remitted to the Department as soon as reasonably practicable but not later than 10 days following the pay period in which the contributions are deducted.

(3) Subject to paragraph (4), in any period of 12 months beginning on 6th April in any year the total contributions payable by the contributor must not exceed the lesser of A and B where—

A is 15 percent of the contributor's salary less the total of any contributions in respect of that year paid by the contributor—

(i) to another approved scheme;

(ii) to a free-standing additional voluntary contributions scheme;

(iii) under the 1995 Regulations;

B is the amount which would be likely to provide benefits of the largest amounts allowed by regulation 13.

(4) In the case of an election under regulation 3(1)(b) to provide for a lump sum death benefit, contributions payable by virtue of that election, or any election under regulation 3(6) or 5(2)(a), may not, at the date on which the Department accepts the election, be of such amount as to provide for a lump sum death benefit in excess of the permitted amount under paragraph 15(4) of the Schedule.

Variation and cancellation of elections

5.—(1) A contributor who has elected under regulation 3(1)(a) to pay contributions for the purpose of investment under regulation 7(1) may at any time by giving written notice to the Department—

(a) subject to regulation 4(3), alter the amount of the contributions;

(b) require the whole or part of them to be invested in future in some authorised fund; or

(c) require the Department to realise the whole or part of any investments made and to reinvest the proceeds in some other authorised fund; or

(d) cancel the election.

(2) A contributor who has elected under regulation 3(1)(b) to pay contributions to provide a lump sum death benefit under regulation 7(2) may at any time by giving written notice to the Department—

(a) subject to regulation 4(3) and (4) and provided he is not absent from work or his health is such that the Department would not accept an election under regulation 3(1)(b), elect that a specified larger sum is to be secured and the contributions increased accordingly; or

(b) cancel the election.

(3) The Department shall give effect as soon as is reasonably practicable to the terms of any notice given under this regulation.

Circumstances in which elections cease to have effect

6. An election shall cease to have effect where a contributor—

(a) receives payment of benefits under any of regulations 12 to 17 of the 1995 Regulations except where the contributor is entitled to accrue further benefits in the circumstances described in regulation 8(2) of those Regulations;

(b) leaves superannuable employment;

(c) ceases to be in superannuable employment by virtue of an election under regulation 9 of the 1995 Regulations (Opting out of the scheme); or

(d) ceases to receive tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation 10 of the 1995 Regulations (Contributions by members).

Investment of additional voluntary contributions

7.—(1) Any contributions paid in respect of a contributor for investment under this paragraph shall be invested by the Department in accordance with any notice under regulation 3(4) or 5(1).

(2) Any contributions paid in respect of a contributor to provide for a lump sum death benefit under this paragraph shall be paid by the Department to an insurance company selected by it so as to secure the payment of a lump sum death benefit of the amount required by any notice under regulation 3(4) or 5(2).

Inward transfers

8.—(1) Where a person who enters superannuable employment has during any previous employment paid contributions to—

(a) a free-standing additional voluntary contributions scheme; or

(b) an approved scheme which provides additional benefits through additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval),

that person, whether or not he becomes a contributor within the meaning of these Regulations, may, within 12 months of entering superannuable employment, or such longer period as the Department may in any particular case allow, give written notice to the Department that he wishes it to accept from the trustees or managers of such a scheme a transfer value representing the value of the investments derived from his contributions.

(2) Where the Department accepts a transfer value it shall be invested by the Department, in accordance with the wishes of the person entering superannuable employment, in one or more of the authorised funds.

(3) Where a transfer value is invested under paragraph (2) the person may at any time, by giving written notice to the Department, require the Department to realise the whole or part of the sums so invested and to reinvest the proceeds in a different way.

Inward transfers: mis-sold pensions

9.—(1) This Regulation shall apply to a person to whom regulation 9A(**1**) (Opting into the Scheme: Mis-sold Pensions) of the 1995 Regulations applies in respect of whom a transfer payment within the meaning of regulation 62A(**2**) (Transfers in respect of members to whom regulation 9A

(**1**) Regulation 9A was inserted by S.I. 1997 No. 217, regulation 4
(**2**) Regulation 62A was inserted by S.I. 1997 No. 217, regulation 6(3)

applies who elect to join or rejoin the scheme) of those Regulations has been paid by a personal pension scheme to the Department.

(2) Subject to paragraph (3), where, at any time, a person to whom this regulation applies elects to rejoin the scheme under regulation 9(5) (Opting out of the scheme) of the 1995 Regulations, that person, whether or not he becomes a contributor within the meaning of these Regulations may, within 12 months of rejoining the scheme, or such longer period as the Department may in any particular case allow, give written notice to the Department that he wishes it to accept, for the purposes of these Regulations, a transfer value.

(3) For the purposes of paragraph (2), the transfer value shall be of an amount representing the difference between—

(a) the capitalised value of the accrued rights to benefit in the personal pension scheme from which the transfer value is paid which is attributable to contributions made to that scheme by the person referred to in paragraph (1) during his opted-out service; and

(b) the total of the amounts referred to in regulation 62A(2)(i) and (ii) of the 1995 Regulations.

(4) Where a transfer value is accepted by the Department it shall be invested by the Department, in accordance with the wishes of the person referred to in paragraph (1), in one or more of the authorised funds.

(5) Where a transfer value is invested under paragraph (4) the person referred to in paragraph (1) may at any time, by giving written notice to the Department, require the Department to realise the whole or part of the sums so invested and to reinvest the proceeds in a different way.

(6) In this regulation—

"opted-out service" means the period of HPSS employment in respect of which the Department has approved an additional period of superannuable service for the purposes of regulation 62A(2)(i) of the 1995 Regulations; and

"personal pension scheme" has the meaning given by section 1 of the Pensions Schemes (Northern Ireland) Act 1993.

Outward transfers

10.—(1) Subject to paragraph (2), the Department shall, in circumstances where a transfer payment in respect of a person is provided and used in accordance with regulation 53 of the 1995 Regulations (Member's right to transfer or buy-out), pay a transfer value representing the value of investments made under regulation 7(1), 8(2) or 9(4) at that person's option to one of the following schemes in which the person may be participating—

(a) an approved scheme which provides additional benefits through additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval);

(b) a personal pension scheme; or

(c) any other arrangement which has been approved by the Board of Inland Revenue to accept transfer payments, provided that the transfer value shall not be used to purchase benefits in the form of a tax free lump sum.

(2) Where the Department is required to make a transfer payment it shall do so by whichever is the earlier of—

(a) the date being a date within six months of the guarantee date; or

(b) if the person in respect of whom the transfer payment is to be made—

(i) ceased to be subject to the 1995 Regulations on a date prior to his attaining the age of 59 years; and

(ii) made his application for a transfer payment within 6 months of that date, the date on which he attains the age of 60 years.

(3) In this regulation "the guarantee date" has the meaning given to it in section 89A of the Pensions Schemes (Northern Ireland) Act 1993(**3**).

(**3**) Section 89A was inserted by S.I. 1995/3213 (N.I. 22) Article 149