STATUTORY RULES OF NORTHERN IRELAND

1999 No. 294

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

PART III

Provision of Benefits

Retirement and dependant's pensions

11.—(1) Subject to paragraph (7) and regulation 15(9) and (10), the proceeds of any investment made under regulation 7(1), 8(2) or 9(4) may be used only for the purchase from an insurance company of an annuity which complies with the requirements of paragraph (2).

(2) An annuity complies with the requirements of this paragraph if—

(a) it provides a retirement pension which commences not earlier than the date of retirement and is payable to the participator for life;

(b) and dependant's pension which is payable under it is payable only on the death of the participator after his retirement and is payable for life, except that in the case of a dependant who is a child to whom regulations 32 to 38 of the 1995 Regulations apply it shall cease to be payable when that person ceases to be a dependent child within the meaning of those Regulations;

(c) it is not capable in whole or in part of surrender, assignment or of commutation.

(3) Not earlier than three months before retirement, a participator, by giving written notice to the Department, shall make a benefits election which shall specify—

(a) whether only a retirement pension is to be provided;

(b) for whom, if anyone, a dependants pension is to be provided;

(c) if more than one pension is to be provided, either—

(i) the proportion of the amount secured by the investments under regulation 7(1), 8(2) or 9(4) that is to be applied to the purchase of each of them; or

(ii) the dependant's pensions to be provided expressed as a percentage of the retirement pension;

(d) in respect of every pension to be provided, whether the annual rate of pension—

(i) is to be fixed; or

(ii) is to vary in accordance with the Index; or

(iii) is to increase yearly by a specified percentage or, if lower than that percentage, by the increase in the Index in the year in question; and

(e) the authorised provider who is to provide each pension.

(4) In the case of a retirement pension, the benefits election under paragraph (3) may also specify that if the participator dies within the period of 5 years beginning on the date the retirement pension commences, the balance that would have been payable during the remainder of that period, if the pension had continued at the rate in force at the time of the participator's death, is to be paid as a lump sum.

(5) Upon receipt of a notice of election under paragraph (3) the Department shall, as soon as reasonably practicable, realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of an annuity from the authorised provider chosen by the participator to provide the benefits specified in the notice of election.

(6) Subject to paragraph (7) and regulation 15(9) and (10) where, on or after the date on which these Regulations come into operation, no benefits election under paragraph (3) has been made six months after the date of retirement, the Department may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of a pension from the insurance company referred to in regulation 7 to provide such benefits as appear to it to be suitable.

(7) If the participator dies before retirement, or after retirement but before an annuity such as is mentioned in paragraph (5) is acquired, the investments made under regulation 7(1), 8(2) or 9(4) shall be realised and be payable as a lump sum, subject to any limit imposed by regulation 13 and paragraph 15 of the Schedule.

(8) If the benefits provided by the annuity, purchased in accordance with paragraph (5), when aggregated with the benefits payable under the 1995 Regulations arising from the participator's superannuable service, do not exceed any amount prescribed by regulations for the time being in force under section 17(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), the authorised provider may discharge the liability for payment of the benefits under the annuity by payment of a lump sum representing their capital value.

Lump sums on death

12.—(1) Subject to paragraph (2), if a contributor who has elected under regulation 3(1)(b) to pay contributions to provide for a lump sum death benefit dies, the lump sum shall be payable.

(2) Any lump sum payable under paragraph (1) shall not exceed the permitted amount specified in paragraph 15(4) of the Schedule.

Benefit limits

13.—(1) The Schedule shall have effect for limiting the benefits that may be paid under these Regulations.

(2) The maximum annual rate of a retirement pension or dependant's pension ascertained from the Schedule may be increased—

(a) by 3 percent for each completed year that has elapsed; or

(b) if a greater increase results, in proportion to the increase in the Index that has occurred,

since the date on which the pension became payable,

(3) The Department shall comply with the requirements of regulation 5 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993(**2**), and where, within the meaning of those Regulations, the scheme is the "leading scheme" in relation to a member, with the requirements of regulation 6 of those Regulations so far as they concern "main schemes" for the purposes of those Regulations.

(**1**) 1993 c. 49

(**2**) S.I.1993/3016.