

2005 No. 154

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation)
(Additional Voluntary Contributions) (Amendment)
Regulations (Northern Ireland) 2005**

Made - - - - - *23rd March 2005*

Coming into operation *9th May 2005*

The Department of Health, Social Services and Public Safety(a), in exercise of the powers conferred upon it by Articles 12(1), (2), (2A)(b), and (3) and 14(c)(1), (2), and 3 and (3A)(d) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(e) 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, hereby makes the following Regulations:

Citation, commencement and retrospective effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) (Amendment) Regulations (Northern Ireland) 2005.

(2) These Regulations shall come into operation on 9th May 2005 and shall have effect from 1st April 2002.

Interpretation

2. In these Regulations “the principal Regulations” mean the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999(f).

Amendment of regulation 2 of the principal Regulations

3. In paragraph (1) of regulation 2(g) (Interpretation) after the definition of “normal benefit age”(h) there shall be inserted the following definition –

““occupational pension scheme” has the meaning given by section 1 of the Pensions Schemes (Northern Ireland) Act 1993(i);”.

(a) See S.I. 1999/283 (N.I. 1) Article 3(6)
(b) Paragraph 2(A) was inserted by Article 10(5) of S.I. 1990/1509 (N.I. 13)
(c) Article 14 of the Superannuation (Northern Ireland) Order 1972 was amended by Article 12 of S.I. 1990/1509 (N.I. 13)
(d) As inserted by Article 12(3) of S.I. 1990/1509 (N.I. 13)
(e) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)
(f) S.R.1999 No. 294 as amended by S.R. 2002 No. 129 and S.R. 2004 No. 104
(g) Regulation 2 was amended by S..R. 2002 No. 129 and S.R. 2004 No. 104
(h) The definition of “normal benefit age” was inserted by regulation 2 of S.R. 2004 No. 104
(i) 1993 (c. 49)

Amendment of regulation 3 of the principal Regulations

- 4.** In regulation 3 (Making and acceptance of elections) –
- (a) in sub-paragraph (3)(a), for the words “or while his earnings are reduced or have ceased” there shall be substituted “due to ill-health”;
 - (b) after paragraph (7) there shall be inserted the following paragraph –
“**(8)** The Department shall notify in writing the person who has made an election under paragraph (1) of the Department’s acceptance of that election.”

Amendment of regulation 6 of the principal Regulations

- 5.** In regulation 6 (Circumstances in which elections cease to have effect) –
- (a) for “An” there shall be substituted “—(1) Subject to paragraph (2), an”; and
 - (b) after the end of sub-paragraph (d) there shall be inserted the following paragraph –
“**(2)** Where paragraph (1)(a) or (b) applies, an election shall be treated as not having ceased to have effect if a contributor gives written notice to the Department for the purpose specified in regulation 5(1)(c).”.

Substitution of regulation 10 of the principal Regulations

- 6.** For regulation 10 (Outward transfers) there shall be substituted the following regulation –
- “**10.**—(1) Subject to paragraphs (4) to (7), the Department shall as soon as is reasonably practicable after having received a notice in writing from an eligible person requesting a transfer of the value of that person’s investments made in relation to that person under regulation 7(1), 8(2) or as the case may be, 9(4) pay a transfer value representing the value of all such investments at that person’s option –
- (a) where that person has left superannuable employment, to one of the schemes specified in paragraph (2) in which that person may be participating; or
 - (b) where that person remains in superannuable employment, to the scheme specified in paragraph (3).
- (2) The schemes specified in this paragraph are –
- (a) an approved scheme which provides additional benefits by virtue of additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval);
 - (b) a personal pension scheme, including a personal pension scheme which is a stakeholder pension scheme under Part II of the Welfare Reform and Pensions (Northern Ireland) Order 1999(a); and
 - (c) an occupational pension scheme which is a stakeholder pension scheme under Part II of the Welfare Reform and Pensions (Northern Ireland) Order 1999; and
 - (d) any other arrangement which has been approved by the Board of the 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.
- (3) The scheme specified in this paragraph is a free-standing additional voluntary contribution scheme.
- (4) Where the Department is required under paragraph (1) to make a transfer payment in circumstances where a transfer payment in respect of an eligible person is also provided and used in accordance with regulation 53 of the 1995 Regulations (Member’s right to transfer or buy-out) he shall do so in accordance with the time limits specified in regulation 56 of the 1995 Regulations (Time limit for doing what member requires), as if any reference in that regulation to an application were a reference to the notice referred to in paragraph (1).
- (5) In any case where the Department has directed under regulation 20 (Loss of rights to benefit) that all or part of any eligible person’s rights to benefit under these Regulations

(a) S.I. 1999/3147 (N.I. 11)

are to be forfeited the cash equivalent payable in respect of that person shall be reduced by the capitalised value of the rights which are to be forfeited.

(6) If disciplinary or court proceedings are commenced against the eligible person within 12 months after leaving superannuable service and it appears to the Department that the proceedings may lead to all or part of that person's rights to benefits being forfeited in accordance with regulation 20, the Department may defer doing what is needed to carry out what that person requires until the date 3 months after the conclusion of those proceedings (including proceedings on appeal) where that date is later than the date which would otherwise apply by virtue of paragraph (4).

(7) Where the Department has done what is needed to carry out what the eligible person requires under this regulation, the Department shall be discharged from any obligation under regulation 15 (Payments by the Department) to or in respect of that person.

(8) In this regulation "eligible person" means a person –

(a) who is a contributor; and

(b) either –

(i) who has not attained the age of 60 years on or before the date the notice referred to in paragraph (1) is received by the Department; or

(ii) to whom regulation 58(a) of the 1995 Regulations (Special terms for transfers out) applies."

Amendment of Schedule

7. In paragraph 9 of the Schedule (Benefit Limits) –

(a) after "K" where it first occurs there shall be inserted ", KK";

(b) in the definition of "K" the word "and" at the end of that paragraph shall be deleted;

(c) after the definition of "K" there shall be inserted the following definition –

"KK is an amount calculated in accordance with paragraph 8 as at the participator's 60th birthday, increased up to the date of his retirement by such an amount as the Government Actuary advises is appropriate having regard to the period of postponement of payment of the participator's pension after his 60th birthday; and".

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 23rd March 2005.

(L.S.)

D. C. Bingham

A senior officer of the Department of Health, Social Services and Public Safety

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 23rd March 2005.

(L.S.)

M. G. Brennan

A senior officer of the Department of Finance and Personnel

(a) Regulation 58 was substituted by regulation 6 of S.R. 2004 No. 103

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) 1999 (S.R. 1999 No. 294) (“the principal Regulations”) which make provision for the payment of additional voluntary contributions by persons who are members of the Health and Personal Social Services (HPSS) Superannuation Scheme as constituted by the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (“the 1995 Regulations”) or by their employers, in order to secure additional benefits financed by investment of those contributions.

The Regulations have retrospective effect from 1st April 2002, as authorised by Article 14(1) of the Superannuation (Northern Ireland) Order 1972.

Regulations 1 and 2 provide for the citation, commencement, retrospective effect and interpretation.

Regulation 3 inserts a new definition into regulation 2 of the principal Regulations (Interpretation).

Regulation 4 amends regulation 3 of the principal Regulations (Making and Acceptance of Elections) in order to clarify that “absence from work” means absence on ill-health and to provide that the member will be notified in writing of the Department’s acceptance of an election.

Regulation 5 amends regulation 6 of the principal Regulations (Circumstances in which elections cease to have effect) to provide that an election shall be treated as not having ceased to have effect in circumstances where a contributor is in receipt of superannuation benefits under the Superannuation Scheme Regulations, or where he has left superannuable employment and he wishes to switch his AVC investments or future contributions to another authorised fund.

Regulation 6 substitutes a new regulation 10 of the principal Regulations (Outward transfers) to provide that certain persons making contributions under those Regulations may transfer the value of investments made under those Regulations to another form of pension arrangement, including a free-standing additional voluntary contributions scheme, without having also to transfer the value of their rights held in the HPSS Superannuation Scheme.

Regulation 7 amends paragraph 9 of the Schedule to the principal Regulations so as to raise the limit for retirement pensions in cases where the member retires after the age of 60 and is entitled to a greater pension because of its postponement.

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