
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 188

The Health and Personal Social Services
(Superannuation Scheme and Injury Benefits)
and Health and Social Care (Pension Scheme)
(Amendment) Regulations (Northern Ireland) 2009

PART 2

AMENDMENT OF THE HEALTH AND PERSONAL SOCIAL SERVICES
(SUPERANNUATION) REGULATIONS (NORTHERN IRELAND) 1995

Amendment of the 1995 Regulations

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995⁽¹⁾ shall be amended as provided by regulations 3 to 12.

Amendment of regulation 8

3. For paragraph (2) of regulation 8 (Restriction on further participation in the Scheme), substitute—

“(2) Persons whose pensions under the scheme are payable may not contribute to or accrue further superannuable service under the scheme, except in the cases referred to in—

- (a) regulation 13(11);
- (b) regulation 13A(11) but subject to paragraph (3);
- (c) regulation 77(6).

(3) Persons to whom—

- (a) regulation 13B(3)(a) applies may not (except where paragraph (b) applies) contribute to or accrue further superannuable service under the scheme from the date the Department makes a determination under that regulation;
- (b) paragraph (a) applies may contribute to or accrue further superannuable service under the scheme from the day after the first anniversary of that person’s HSC employment following the date of the Department’s determination under regulation 13B if that person is under the age of 50 on that day.”.

Amendment of regulation 10

4. For paragraphs (1) to (2T) of regulation 10 (Contributions by members), substitute—

(1) S.R. 1995 No. 95 as amended by S.R. 1997 Nos. 217 and 390; S.R. 1998 No. 299; S.R. 1999 No. 293; S.R. 2002 No. 69; S.R. 2004 Nos. 103 and 104; S.R. 2005 Nos. 155, 533, 534 and 565; S.R. 2006 Nos. 159 and 410; S.R. 2008 Nos. 96, 130 and 163 and S.R. 2009 No. 65

“(1) Each member in superannuable employment must contribute to the scheme in accordance with the following paragraphs.

(1A) For the 2009–2010 scheme year and each subsequent scheme year, a member whose superannuable pay falls into a pay band specified in column 1 of the following table must contribute the percentage of the member’s superannuable pay specified in column 2 of that table in respect of that amount.

<i>Column 1</i> <i>Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £20,224	5%
£20,225 to £66,789	6.5%
£66,790 to £105,318	7.5%
£105,319 to any higher amount	8.5%

(2) The Department may, with the consent of the Department of Finance and Personnel, make a determination substituting any or all of the pay bands or contribution percentage rates specified in paragraph (1A) with effect from a date specified in the determination.

(2A) Before making a determination under paragraph (2), the Department must consider—

- (a) the advice of the Scheme Actuary; and
- (b) advice from such employee and employer representatives as the Department considers appropriate.

(2B) For the purposes of this regulation—

- (a) “previous scheme year” means the scheme year immediately preceding the scheme year in respect of which contributions are payable in accordance with this regulation (“the current scheme year”); and
- (b) if a member holds two or more superannuable employments at the same time—
 - (i) the determinations referred to in paragraphs (2E) to (2V) shall apply to each such employment separately, and
 - (ii) each such employment shall be treated separately for the purpose of paying contributions.

(2C) Subject to paragraphs (2Q) and (2R), for the purposes of determining the relevant annual contribution rate for the current scheme year paragraphs (2D) to (2P) apply to a member who is in superannuable employment with the same employing authority on both the last day of the previous scheme year and the first day of the current scheme year.

(2D) For the purposes of paragraphs (2E) to (2P)—

- (a) a member shall be regarded as being in superannuable employment throughout the previous scheme year regardless of any period in that year during which the member continued to be employed by the same employer but did not make contributions to the scheme;
- (b) for the purposes of calculating the member’s superannuable pay—
 - (i) contributions for any period referred to in sub-paragraph (a) shall be deemed to have been paid, and
 - (ii) any additional superannuable pay that the member is treated as having received during an absence from work in accordance with regulation 65 or 66 shall be included;

- (c) the amount of superannuable pay determined in accordance with those paragraphs shall be rounded down to the nearest whole pound.

(2E) If a member—

- (a) was in superannuable employment with an employing authority on a whole-time basis throughout the previous scheme year;
- (b) paid contributions in respect of that employment at the same percentage rate throughout that previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay received during the previous scheme year.

(2F) If a member—

- (a) was in superannuable employment with an employing authority on a part-time basis throughout the previous scheme year;
- (b) paid contributions in respect of that employment at the same percentage rate throughout that previous scheme year;
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by reference to the amount the Department determines would have been paid in respect of a single comparable whole-time employment during the previous scheme year.

(2G) If a member—

- (a) was in superannuable employment with an employing authority on a combination of a whole-time and part-time basis throughout the previous scheme year;
- (b) paid contributions in respect of that employment at the same percentage rate throughout that previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the aggregate of—

- (i) the member's superannuable pay received during the previous scheme year in respect of the member's whole-time employment, and
- (ii) the amount the Department determines would have been paid in respect of a single comparable whole-time employment for that period in respect of the member's part-time employment.

(2H) If a member—

- (a) was in superannuable employment with an employing authority on a whole-time basis throughout the previous scheme year;
- (b) did not pay contributions in respect of that employment at the same percentage rate throughout that previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined by the formula—

$$\frac{RSP}{NDSE} \times 365$$

where—

RSP is the superannuable pay received in respect of that employment for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2I) If a member—

- (a) was in superannuable employment with an employing authority on a part-time basis throughout the previous scheme year;
- (b) did not pay contributions in respect of that employment at the same percentage rate throughout that previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined by the formula—

$$\frac{CWTE}{NDSE} \times 365$$

where—

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2J) If a member—

- (a) was in superannuable employment with an employing authority on a combination of a whole-time and part-time basis throughout the previous scheme year;
- (b) did not pay contributions in respect of that employment at the same percentage rate throughout that previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay

referred to in column 1 of that table which corresponds to the member's superannuable pay determined by the formula—

$$\frac{(RSP + CWTE)}{NDSE} \times 365$$

where—

RSP is the superannuable pay received for the whole-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2K) If a member—

- (a) commenced superannuable employment with an employing authority on a whole-time basis during the previous scheme year;
- (b) paid contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by the formula—

$$\frac{RSP}{NDSE} \times 365$$

where—

RSP is the superannuable pay received in respect of that employment during the previous scheme year;

NDSE is the number of days of superannuable employment with that employer during the previous scheme year.

(2L) If a member—

- (a) commenced superannuable employment with an employing authority on a part-time basis during the previous scheme year;
- (b) paid contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by the formula—

$$\frac{CWTE}{NDSE} \times 365$$

where—

CWTE is the amount the Department determines would have been paid for that employment during the previous scheme year in respect of a single comparable whole-time employment;

NDSE is the number of days of superannuable employment with that employer during the previous scheme year.

(2M) If a member—

(a) commenced superannuable employment with an employing authority during the previous scheme year and has since been employed on both a whole-time and part-time basis;

(b) paid contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and

(c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by the formula—

$$\frac{(RSP + CWTE)}{NDSE} \times 365$$

where—

RSP is the superannuable pay received for the whole-time employment with that employer during the previous scheme year;

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer during the previous scheme year;

NDSE is the number of days of superannuable employment with that employer during the previous scheme year.

(2N) If a member—

(a) commenced superannuable employment with an employing authority on a whole-time basis during the previous scheme year;

(b) did not pay contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and

(c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by the formula—

$$\frac{RSP}{NDSE} \times 365$$

where—

RSP is the superannuable pay received in respect of that employment for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2O) If a member—

- (a) commences superannuable employment with an employing authority on a part-time basis during the previous scheme year;
- (b) did not pay contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the amount of the member's superannuable pay determined by the formula—

$$\frac{CWTE}{NDSE} \times 365$$

where—

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2P) If a member—

- (a) commenced superannuable employment with an employing authority during the previous scheme year and has since been employed on both a whole-time and part-time basis with that employing authority;
- (b) did not pay contributions in respect of that employment at the same percentage rate from the date that employment commenced to the last day of the previous scheme year; and
- (c) is employed by that authority on the first day of the current scheme year,

the member shall pay contributions during the current scheme year at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined by the formula—

$$\frac{(RSP + CWTE)}{NDSE} \times 365$$

where—

RSP is the superannuable pay received for the whole-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

CWTE is the amount the Department determines would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year;

NDSE is the number of days of superannuable employment with that employer for the period commencing on the date the member's contribution rate last changed in that previous scheme year and ending on the last day of that previous scheme year.

(2Q) If, at any time during the current scheme year, a member commences a new employment, the member shall pay contributions in respect of that employment at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with paragraph (2U).

(2R) Subject to paragraph (2S), if at any time during the current scheme year, a change is made to a member's annual rate of superannuable pay or superannuable allowances in respect of an existing employment the member shall pay contributions—

- (a) from the first day of the next pay period immediately following the pay period in which the change is made at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with paragraph (2U); and
- (b) as if the member's employment had commenced on that date.

(2S) Paragraph (2R) does not apply to a change made to a member's annual rate of superannuable allowances in respect of an existing employment that is determined by that member's employer to have been made in respect of—

- (a) unplanned changes to that member's duties; or
- (b) changes to that member's duties that are unlikely to persist for at least 12 months.

(2T) If the change to a member's superannuable pay referred to in paragraph (2R) is made in respect of an existing part-time employment, that paragraph shall not apply unless there is a corresponding change to the amount of superannuable pay that would be paid to that member in respect of a whole-time comparable employment.

(2U) Where paragraph (2Q) or (2R) apply the Department shall determine the member's superannuable pay—

- (a) by applying the formula—

$$\frac{ESP}{NDSE} \times 365$$

where—

ESP is the estimated superannuable pay that the member's employing authority estimates will be payable to the member in respect of that employment during the current scheme year;

NDSE is the number of days of superannuable employment from the date employment commences to the end of the current scheme year; and

- (b) if the further employment is part-time employment, by determining how much would be paid in respect of a whole-time comparable employment,

with the amount determined under sub-paragraph (a) being the member's superannuable pay for the purposes of this paragraph if the further employment is whole-time employment and the amount determined under sub-paragraph (b) being the member's superannuable pay for the purposes of this paragraph if the further employment is part-time employment.

(2V) If none of paragraphs (2E) to (2R) apply—

- (a) the Department must determine the amount of the member's superannuable pay, and in doing so shall, in addition to the matters referred to in paragraph (2A), have regard to the superannuable pay attributable to superannuable employment comparable to the member's employment, prevailing pay scales and prevailing rates of superannuable allowances; and
- (b) the member shall pay contributions at the rate specified in column 2 of the table in paragraph (1A) in respect of the amount of superannuable pay referred to in column 1 of that table which corresponds to the member's superannuable pay determined in accordance with sub-paragraph (a).

(2W) If, during the current scheme year—

- (a) a payment is made to a member in respect of work that was undertaken by that member—
- (i) during an earlier scheme year, or
 - (ii) during a period before the percentage rate at which contributions are due from that member changed by virtue of paragraph (2Q) or (2R), or
 - (iii) in part during the scheme year referred to in head (i) and in part during the period referred to in head (ii);
- (b) that member is in superannuable employment with the employing authority making that payment on the day that it is made; and
- (c) that payment does not exceed £150,

for all purposes other than for the purpose of calculating benefits under the scheme—

- (i) that payment shall be treated as if it has been made to the member in respect of work undertaken by that member in the current scheme year, and
- (ii) contributions shall be payable in respect of that payment at the rate applicable to the member on the day that the payment is made.

(2X) If, during the current scheme year—

- (a) a payment is made to a member in respect of work that was undertaken by that member—
- (i) during an earlier scheme year, or

- (ii) during a period before the percentage rate at which contributions are due from that member changed by virtue of paragraph (2Q) or (2R), or
 - (iii) in part during the scheme year referred to in head (i) and in part during the period referred to in head (ii);
 - (b) that member is not in superannuable employment with the employing authority making that payment on the day that it is made; and
 - (c) that payment does not exceed £150,
- for all purposes other than for the purpose of calculating benefits under the scheme—
- (i) that payment shall be treated as if it has been made to the member in respect of work undertaken by that member in the scheme year in which the member's superannuable employment with that employing authority ceased, and
 - (ii) contributions shall be payable in respect of that payment at the rate applicable to the member on the day that the member's employment ceased.
- (2Y) If, during the current scheme year—
- (a) a payment is made to a member that is determined by that member's employing authority to have been made in respect of work done during unsocial hours;
 - (b) that payment is made in respect of work undertaken by that member during a period falling within the two calendar months immediately preceding the calendar month in which that payment is made; and
 - (c) on the day that payment is made that member is in superannuable employment with the employing authority by which that payment is made,
- for all purposes other than for the purpose of calculating benefits under the scheme—
- (i) that payment shall be treated as if it has been made to that member in respect of work undertaken by that member in the current scheme year,
 - (ii) contributions shall be payable in respect of that payment at the rate applicable to the member on the day that the payment is made.
- (2Z) If, during the current scheme year—
- (a) a payment is made to a member that is determined by that member's employing authority to have been made in respect of work done during unsocial hours;
 - (b) that payment is made in respect of work undertaken by that member during a period falling within the two calendar months immediately preceding the calendar month in which that payment is made; and
 - (c) on the day that payment is made that member is not in superannuable employment with the employing authority by which that payment is made,
- for all purposes other than for the purpose of calculating benefits under the scheme—
- (i) that payment shall be treated as if it has been made to that member in respect of work undertaken by that member in the current scheme year,
 - (ii) contributions shall be payable in respect of that payment at the rate applicable to the member on the day the member's superannuable employment with that employing authority ceased as determined in accordance with this regulation.”.

Amendment of regulation 13B

5. In paragraph (2) of regulation 13B (Re-assessment of ill-health condition determined under regulation 13A)—

- (a) at the end of sub-paragraph (b) omit “and”;
- (b) after sub-paragraph (c), add—
 - “; and
- (d) the member has not become entitled to a tier 2 pension in respect of any later service under regulation 86A(6).”.

Amendment of regulation 17

6.—(1) Regulation 17 (Lump sum on retirement) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (2) after “paragraphs”, insert “(2A).”.

(3) After paragraph (2), insert—

“(2A) Where regulation 13B(3) applies, the lump sum payable shall be equal to the difference between—

- (a) three times the yearly rate of pension calculated in accordance with regulation 13A(3)(a); and
- (b) three times the yearly rate of pension calculated in accordance with regulation 13B(3)(b).”.

Amendment of regulation 17A

7.—(1) Regulation 17A (General option to exchange part of pension for lump sum) is amended as provided by paragraphs (2) and (3).

(2) In paragraph (8) for “The option” substitute, “Subject to paragraphs (9) and (10), the option”.

(3) After paragraph (8), add—

“(9) If the pension is an ill-health pension under regulation 13A, the option under this regulation may only be exercised by giving notice in writing to the Department in the form required by the Department—

- (a) where the member is awarded—
 - (i) a tier 1 pension under paragraph (3)(a) of that regulation, at the time of claiming that tier 1 pension,
 - (ii) a tier 2 pension under paragraph (3)(b) of that regulation, at the time of claiming that tier 2 pension; or
- (b) before such later time as the Department specifies in writing.

(10) If the pension is a tier 2 ill-health pension under regulation 13B to be paid in place of a tier 1 ill-health pension under regulation 13A, the option under this regulation may only be exercised—

- (a) in relation to the difference between the tier 1 pension that is replaced by the tier 2 pension in accordance with paragraph (3) of regulation 13B and the tier 2 pension to which the member becomes entitled under that paragraph; and
- (b) by giving notice in writing to the Department in the form required by the Department—
 - (i) at the time of award of the tier 2 pension under that paragraph, or

(ii) before such later time as the Department specifies in writing.”.

Amendment of regulation 35

8.—(1) Regulation 35 (Member dies after pension becomes payable), is amended as provided by paragraphs (2) to (5).

- (2) In paragraph (4) after “civil partner”, insert “or nominated partner”.
- (3) In paragraph (5)—
 - (a) after “civil partner”, insert “or nominated partner”;
 - (b) after “surviving civil partner's”, insert “or surviving nominated partner's”.
- (4) In paragraph (6)—
 - (a) after “surviving civil partner's”, insert “or surviving nominated partner's”;
 - (b) after “surviving civil partner”, insert “or surviving nominated partner”.
- (5) In paragraph (7)—
 - (a) after “surviving civil partner's”, insert “or surviving nominated partner's”;
 - (b) after “surviving civil partner”, insert “or surviving nominated partner”.

Amendment of regulation 49

- 9.** In paragraph (5) of regulation 49 (Preserved pension) after “a lump sum”, add—
- “of an amount consistent with—
 - (a) the contracting-out and preservation requirements of the 1993 Act; and
 - (b) the lump sum rule”.

Amendment of regulation 86A

10. In regulation 86A (Benefits in respect of superannuable employment after pension becomes payable under regulation 13A) after paragraph (6), add—

- “(7) A member—
 - (a) to whom a tier 2 pension is payable in place of a tier 1 pension in respect of the member’s previous service in accordance with regulation 13B(3); and
 - (b) who satisfies the tier 1 condition or, as the case may be the tier 2 condition, in respect of the member’s later service,
 shall be entitled to the following benefit.
- (8) That benefit is the aggregate of—
 - (a) a tier 2 pension paid in accordance with regulation 13B in respect of the member’s previous service; and
 - (b) a tier 1 pension in respect of the member’s later service.”.

Amendment of Schedule 2

11.—(1) Schedule 2 (Medical and dental practitioners) is amended as provided by paragraphs (2) to (4).

(2) For sub-paragraphs (1) to (2Z) of paragraph 10 of Schedule 2 (Medical and dental practitioners), substitute—

“(1) In the case of members who are practitioners or non-GP providers, regulation 10 (Contributions by members) and regulation 11 (Contributions by employing authorities) are modified as described in the following sub-paragraphs.

(2) Subject to sub-paragraph (2A), for the 2009–2010 scheme year and each subsequent scheme year, a member’s contribution rate is the percentage specified in Column 2 of the following table in respect of the corresponding amount of superannuable earnings specified in Column 1 of the table into which the member’s earnings fall.

<i>Column 1</i> <i>Amount of superannuable earnings</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £20,224	5%
£20,225 to £66,789	6.5%
£66,790 to £105,318	7.5%
£105,319 to any higher amount	8.5%

(2A) The Department may make a determination substituting any or all of the amounts of superannuable earnings or contribution rates specified in the table in sub-paragraph (2) with effect from a date specified in the determination.

(2B) Before making a determination under sub-paragraph (2A), the Department must consider—

- (a) the advice of the Scheme actuary; and
- (b) advice from such employee and employer representatives as the Department considers appropriate.

(2C) If, apart from this sub-paragraph, the earnings for a scheme year in respect of a member’s practitioner or non-GP provider service would not be a whole number of pounds, those earnings will be rounded down to the nearest whole pound.

(2D) If a member is in practitioner or non-GP provider as well as (concurrently) employment other than as a practitioner or non-GP provider in respect of which he is liable to pay contributions in accordance with regulation 10, the contributions payable in respect of the member’s—

- (a) practitioner or non-GP provider service, shall be determined in accordance with the provisions of these regulations that apply to a practitioner or non-GP provider; and
- (b) employment as an officer, shall be determined in accordance with the provisions of these regulations that apply to an officer.

(2E) Where a practitioner (other than a dentist performer) or a non-GP provider is also in service as a dentist performer (or vice versa) the practitioner service as a practitioner (other than as a dentist performer) or as a non-GP provider and the practitioner service as a dentist performer will each be treated separately under this paragraph.

(2F) In determining the contributions payable in accordance with sub-paragraph (2), a host Health and Social Services Board must take account of superannuable earnings as a practitioner or as a non-GP provider or, as the case may be, a dentist performer, from all practitioner or non-GP provider or, as the case may be, dentist performer sources, including any such superannuable earnings determined by another host Health and Social Services Board.

(2G) An employing authority that is not a host Health and Social Services Board shall, in respect of any superannuable earnings it pays to a practitioner or to a non-GP provider,

take advice from the relevant host Health and Social Services Board in determining the contributions payable in accordance with sub-paragraph (2).

(2H) If, in respect of a scheme year, a practitioner (other than a dentist performer) or a non-GP provider has—

- (a) certified their superannuable earnings in accordance with paragraph 23 and forwarded a record of those earnings to the host Health and Social Services Board; or
- (b) was not required to certify their earnings in accordance with that paragraph but the host Health and Social Services Board has the figure that represents the practitioner's or non-GP provider's superannuable earnings for that scheme year,

contributions payable for that scheme year, shall be those specified in column 2 of the table in sub-paragraph (2) in respect of the amount of superannuable earnings referred to in column 1 of that table which corresponds to the aggregate of—

- (i) certified or final superannuable earnings from all practitioner or non-GP provider sources, and
- (ii) any additional superannuable earnings the practitioner (other than a dentist performer) or non-GP provider is treated as having received during an absence from work in accordance with regulation 65 or 66 and the modifications described in paragraph 19.

(2I) Subject to sub-paragraph (2J), if sub-paragraph (2H) does not apply to a practitioner (other than a dentist performer) or to a non-GP provider in respect of a scheme year, that practitioner or non-GP provider shall pay contributions at the rate in column 2 of the table in sub-paragraph (2), which—

- (a) has been agreed between the host Health and Social Services Board on the one hand and the practitioner or non-GP provider on the other hand; or
- (b) corresponds to the practitioner's or non-GP provider's most recent certified or final superannuable earnings referred to in sub-paragraph (2H); or
- (c) corresponds to the host Health and Social Services Board's estimate of the practitioner's or non-GP provider's superannuable earnings from all practitioner or non-GP provider sources for that year.

(2J) If sub-paragraph (2I) applies to a practitioner (other than a dentist performer) or to a non-GP provider in respect of a scheme year and sub-paragraph (2H)(a) or (b) is subsequently satisfied in respect of that scheme year, that practitioner or non-GP provider shall pay contributions at the rate determined in accordance with sub-paragraph (2H).

(2K) If, in respect of a scheme year, a dentist performer has—

- (a) certified their superannuable earnings in accordance with paragraph 23 and forwarded a record of those earnings to the host Health and Social Services Board; or
- (b) was not required to certify their earnings in accordance with that paragraph but the host Health and Social Services Board has the figure that represents the dentist performer's superannuable earnings for that scheme year;

contributions payable for that scheme year, shall be those specified in column 2 of the table in sub-paragraph (2) in respect of the amount of superannuable earnings referred to in column 1 of that table which corresponds to the aggregate of—

- (i) certified or final superannuable earnings from all dentist performer sources, up rated according to the formula—

(SE / NDPS) x 365

where—

SE is the certified or final amount of dentist performer's superannuable earnings from all dentist performer sources for that year;

NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year, and

- (ii) any additional superannuable earnings the dentist performer is treated as having received during an absence from work in accordance with regulation 65 or 66 and the modifications described in paragraph 19.

(2L) Subject to sub-paragraph (2M), if sub-paragraph (2K) does not apply to a dentist performer in respect of a scheme year, that dentist performer shall pay contributions at the rate in column 2 of the table in sub-paragraph (2), which—

- (a) has been agreed between the host Health and Social Services Board on the one hand and the dentist performer on the other hand; or
- (b) corresponds to the dentist performer's most recent certified or final superannuable earnings referred to in sub-paragraph (2K); or
- (c) corresponds to the host Health and Social Services Board estimate of the dentist performer's superannuable earnings from all dentist performer sources for that year up-rated according to the formula referred to in sub-paragraph (2K).

(2M) If sub-paragraph (2L) applies to a dentist performer in respect of a scheme year and sub-paragraph (2K) (a) or (b) is subsequently satisfied in respect of that scheme year, that dentist performer shall pay contributions at the rate determined in accordance with sub-paragraph (2K).

(2N) A host Health and Social Services Board may adjust a practitioner's or a non-GP provider's contribution rate for any scheme year determined in accordance with sub-paragraphs (2I) or (2L)—

- (a) by agreement between the host Health and Social Services Board on the one hand and the practitioner or non-GP provider on the other hand; or
- (b) without such agreement, if the host Health and Social Services Board is satisfied that superannuable earnings will exceed the amount used to determine the contribution rate in accordance with those paragraphs.”.

(3) For paragraph 14 (Lump sum on member's death in superannuable employment or after pension becomes payable), substitute—

“Lump sum on member's death in superannuable employment or after pension becomes payable

14.—(1) In the case of members who die in superannuable employment as practitioners, regulation 18 (Member dies in superannuable employment) is modified so that, in relation to the member's employment as a practitioner, the reference to final year's superannuable pay in regulation 18(2) is treated as a reference to—

- (a) in the case of a member who is required to pay contributions under regulation 10(4), the yearly average of the member's uprated earnings at the date of death; or

(b) in the case of a member who is no longer required to pay contributions under regulation 10(4), the yearly average of the member's uprated earnings on the member's last day of superannuable service.

(2) In the case of members who die after a pension under the scheme in respect of practitioner service becomes payable, regulation 19 (Member dies after pension becomes payable) is modified so that, in relation to the member's employment as a practitioner, the reference to final year's superannuable pay in regulation 19(2) is treated as a reference to the yearly average of the member's uprated earnings on the member's last day of superannuable service.”

(4) For paragraph 23 (Accounts and actuarial reports), substitute—

“Accounts and actuarial reports

23.—(1) In the case of members who are practitioners or non-GP providers, regulation 97 (Accounts and actuarial reports) is modified as described in this paragraph.

(2) In respect of each scheme year, a principal medical practitioner and a non-GP provider shall provide each relevant host Health and Social Services Board with a certificate of their superannuable earnings based on—

- (a) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which the member is a member; and
- (b) the return that member has made to Her Majesty's Revenue and Customs in respect of their earnings for that year,

no later than 1 month after the date on which that return was required to be submitted to Her Majesty's Revenue and Customs.

(3) In respect of each scheme year, an assistant medical practitioner and a locum practitioner shall provide each relevant host Health and Social Services Board with a certificate of their superannuable earnings based on—

- (a) the payments they receive from employing authorities for practitioner services; and
- (b) the return that member has made to Her Majesty's Revenue and Customs in respect of their earnings for that year,

no later than 1 month after the date on which that return was required to be submitted to Her Majesty's Revenue and Customs.

(4) In respect of each scheme year, a principal dental practitioner shall provide each relevant host Trust or Board with a certificate of their superannuable earnings based on their superannuable earnings as a principal dental practitioner from all principal dental practitioner sources no later than 6 months after the end of that scheme year.

(5) In respect of each scheme year, an assistant dental practitioner shall provide each relevant host Trust or Board with a certificate of their superannuable earnings based on—

- (a) the payments they receive from employing authorities for practitioner services; and
- (b) their superannuable earnings as an assistant dental practitioner from all other assistant dental practitioner sources,

no later than 6 months after the end of that scheme year.

(6) In respect of each scheme year, a GMS or an APMS contractor shall provide the Department with—

- (a) a statement of estimated superannuable earnings in respect of any—
 - (i) non-GP provider that is an APMS contractor or who assists in the provision of HSC services provided by that GMS or APMS contractor,

- (ii) principal medical practitioners who perform medical services as, or on behalf of, the practice or contractor, and
 - (iii) assistant medical practitioners employed by the practice or contractor; and
- (b) an end-of-year statement of—
 - (i) superannuable earnings,
 - (ii) contributions to the Scheme made under regulation 10 (contributions by members),
 - (iii) contributions to the Scheme made under regulation 11 (contributions by employing authorities), and
 - (iv) any superannuable earnings deemed in accordance with regulation 65 and the modifications to that regulation referred to in paragraph 19,in respect of assistant medical practitioners employed by the practice or contractor.
- (7) The Department shall be provided with—
 - (a) the statement referred to in sub-paragraph (6)(a) at least 1 month before the beginning of that scheme year;
 - (b) the statement referred to in sub-paragraph (6)(b) no later than 3 months after the end of that scheme year.
- (8) A host Health and Social Services Board shall, for each scheme year and no later than 13 months after the end of each scheme year, forward to the Department a copy of the records the host Health and Social Services Board maintains in respect of—
 - (a) all contributions to the Scheme made under paragraph 10 in respect of principal medical practitioners and non-GP providers; and
 - (b) their superannuable earnings.
- (9) Subject to paragraph (10), if, in respect of a scheme year, a member has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to that member, the member's superannuable earnings for that scheme year shall be zero.
- (10) If, in respect of a scheme year—
 - (a) a practitioner or non-GP provider has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to them;
 - (b) a benefit in respect of such service is payable to, or in respect of that member, under these Regulations; and
 - (c) the member's employing authority is in possession of a figure representing all or part of the member's superannuable earnings for that year,the Department may treat that figure as the amount of the member's superannuable earnings for that year.
- (11) If, in respect of a scheme year, a practitioner or non-GP provider—
 - (a) dies without complying with the requirements of whichever of sub-paragraphs (2) to (5) applies to them; or
 - (b) is, in the opinion of the Department, unable to look after their own affairs by reason of illness or lack of capacity;the Department may require that practitioner or non-GP provider's personal representatives to provide the relevant certificate—
 - (i) within the period referred to in whichever of sub-paragraphs (2) to (5) was or is applicable to them, or

(ii) within such other period as the Department should permit.

(12) The certificates and statements referred to in this regulation—

- (a) shall be in such form as the Department shall from time to time require;
- (b) may be provided to the Department in such manner as the Department may from time to time permit.

(13) A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment or of a disturbance in the functioning of his mind or brain.”.

Amendment of Schedule 2A

12.—(1) Schedule 2A (Pension Sharing on Divorce or Nullity of Marriage) is amended as provided by paragraphs (2) to (9).

(2) Omit paragraph 2 (Safeguarded rights).

(3) In paragraph 3 (Pension credit benefit)—

- (a) in the heading, after “benefit” insert “on attaining normal benefit age”;
- (b) in sub-paragraph (2), for “paragraph 4” substitute “paragraphs 3A to 4”;
- (c) in sub-paragraph (5), for “The value” substitute “Subject to paragraph (7), the value”;
- (d) after sub-paragraph (6), add—

“(7) A pension credit member who is entitled to a lump sum in accordance with sub-paragraph (1)(b) may opt to exchange part of a pension to which the pension credit member would otherwise be entitled for a lump sum, which must be an evenly divisible multiple of £12.

(8) If a pension credit member so opts, for every £1 by which the pension credit member’s annual pension is reduced, the pension credit member is to be paid a lump sum of £12.

(9) An option under paragraph (7) must relate to an annual amount of pension that is a whole number of pounds (and accordingly the lump sum will be exactly divisible by 12).

(10) In paragraph (9) “annual amount” in relation to a pension means the amount of the annual pension to which the pension credit member would be entitled under these regulations apart from the option, together with any increases payable under the Pensions (Increase) Act (Northern Ireland) 1971, calculated as at the time the payment would be first due.

(11) A pension credit member may not exchange pension for lump sum under this paragraph to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the Finance Act 2004.

(12) The option under sub-paragraph (7) may only be exercised by giving notice in writing to the Department in the form required by the Department—

- (a) at the time of claiming the pension; or
- (b) before a later time specified in writing by the Department.”.

(4) After paragraph 3, insert—

“Pension credit benefit before attaining normal benefit age (with actuarial reduction)

3A.—(1) Subject to sub-paragraph (2), a pension credit member shall be entitled to the payment of the pension credit benefit described in paragraph 3 on or after attaining normal minimum pension age but before attaining normal benefit age.

(2) The pension and the lump sum (if any) described in that paragraph will be reduced by such amount as the Department, after taking the advice of the Scheme actuary, may determine.

Pension credit benefit before attaining normal benefit age (on grounds of ill health)

3B.—(1) A pension credit member shall be entitled to the payment of the pension credit benefit described in paragraph 3 before attaining normal benefit age if the Department is satisfied that the pension credit member—

- (a) meets the ill-health condition specified in paragraph 1 of Schedule 28 to the Finance Act 2004; and
- (b) had previously been engaged in regular employment but is now permanently incapable of engaging in such employment due to mental or physical infirmity.

(2) For the purpose of sub-paragraph (1), the Department may require whatever medical evidence that it considers necessary.”.

(5) In paragraph 4 (Commutation of the whole of pension credit benefit before normal benefit age)—

(a) in sub-paragraph (1), for “in the circumstances described in regulation 3(2)(a) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 (Commutation of the whole of pension credit)” substitute “in the circumstances permitted by paragraph (b) of the lump sum rule in section 166(1) of the Finance Act 2004”;

(b) after sub-paragraph (1), insert—

“(1A) For the purpose of sub-paragraph (1), the Department may require whatever medical evidence that it considers necessary.”;

(c) for sub-paragraph (2), substitute—

“(2) The pension credit payable in the circumstances described in sub-paragraph (1) shall consist of—

(a) where paragraph 3(1)(b) applies, a lump sum equal to the aggregate of—

- (i) 3 times the annual rate of the pension otherwise payable under paragraph 3 had the pension credit member reached normal benefit age on the date when commutation in accordance with this paragraph is applied for,
- (ii) 5 times the annual rate of the pension referred to in head (i) after that annual rate has been reduced by the maximum amount of pension that the pension credit member may exchange for a lump sum under paragraph 3(7), and
- (iii) the lump sum resulting from the reduction to the pension credit member’s pension referred to in head (ii);

(b) where paragraph 3(1)(b) does not apply, a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3 had the pension credit member reached normal benefit age on the date when commutation in accordance with this paragraph is applied for.”.

(6) In paragraph 5 (Commutation of the whole of pension credit benefit at normal benefit age) for sub-paragraph (2), substitute—

“(2) The pension credit payable in the circumstances described in sub-paragraph (1)(a) shall consist of—

(a) where paragraph 3(1)(b) applies, a lump sum equal to the aggregate of—

- (i) 3 times the annual rate of the pension otherwise payable under paragraph 3,

- (ii) 5 times the annual rate of the pension referred to in head (i) after that annual rate has been reduced by the maximum amount of pension that the pension credit member may exchange for a lump sum under paragraph 3(7), and
 - (iii) the lump sum resulting from the reduction to the pension credit member's pension referred to in head (ii);
- (b) where paragraph 3(1)(b) does not apply, a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3.”
- (7) In paragraph 7 (Pension credit member dies after pension credit benefit becomes payable) for sub-paragraph (3), substitute—
 - “(3) The maximum payment under this paragraph shall not exceed the amount calculated in accordance with sub-paragraph (4), less the aggregate of—
 - (a) the amount of any lump sum paid to the pension credit member in accordance with paragraph 3(6); and
 - (b) the amount of any lump sum paid to the pension credit member in accordance with paragraph 3(7).”.
- (8) In paragraph 12 (Offset for crime, negligence or fraud), omit sub-paragraph (b).
- (9) In paragraph 13 (Loss of rights to benefits), omit sub-paragraph (b).