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STATUTORY RULES OF NORTHERN IRELAND

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**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 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—

$$(SE / NDPS) \times 365$$

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.”.