
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 286

The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2010

PART 3

Amendment of the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

Part 3: General

16. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008⁽¹⁾ shall be amended as provided by regulations 17 to 51.

Amendment of regulation 6

17. In regulation 6 (Interpretation: general)—

(a) in the definition of “GMS practice”—

(i) in paragraph (a), after “registered medical practitioner” insert “who is a principal medical practitioner”,

(ii) in paragraph (b), after “or more” insert “such”;

(b) in the definition of “host Board”, for “registered medical practitioner”, substitute “principal medical practitioner”;

(c) in the definition of “practitioner” after paragraph (b), add—

“or

(c) an ophthalmic provider”;

(d) at the appropriate place in the alphabetical order, insert—

““GOS arrangements” has the meaning given in regulation 13 of the General Ophthalmic Services Regulations (Northern Ireland) 2007⁽²⁾;

“GP provider” has the meaning given in regulation 137;

“ophthalmic provider” means a registered medical practitioner who is a principal medical practitioner who is included in an ophthalmic provider list prepared and kept by the Regional Business Services Organisation (RBSO) pursuant to regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007 and is a party to GOS arrangements;

(1) S.R. 2008 No.256 as amended by S.R. 2009 Nos.65 and 188; S.R. 2010 No.22

(2) S.R. 2007 No.436

“registered medical practitioner” has the meaning given in section 55 of the Medical Act 1983(3);

“Waiting Period Joiner” has the meaning given in regulation 136Y;”.

Amendment of regulation 15

18. For paragraph (3) of regulation 15 (Meaning of “reckonable pay”: general), substitute—

“(3) A member’s “reckonable pay” is determined by the formula—

Where—

IRP is the interim reckonable pay determined in paragraph (4), (6) or (7), as appropriate, before any adjustment for inflation in accordance with regulation 16,

RPa is the annual rate of retirement pension the member would be entitled to if the reckonable pay used to calculate it was the interim reckonable pay, including any adjustment for inflation described in regulation 16, and

RPi is the annual rate of retirement pension the member would be entitled to if the reckonable pay used to calculate it was the interim reckonable pay, excluding any adjustment for inflation described in regulation 16, but instead including any increases that pay would attract if it was the annual rate of an official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971.”.

Amendment of regulation 21

19. After paragraph (5)(f) of regulation 21 (Eligibility: general), add—

“(g) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation 9 of the 1995 Regulations (Opting out of the Scheme) and—

- (i) as a result of that notice has been treated as ceasing to be an active member of that Section, and
- (ii) pursuant to that notice remains opted-out of that Section for five years or more;

(h) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation 9 of the 1995 Regulations (Opting-out of the Scheme) and following that notice, has ceased to be an active member of that Section for any one period of five years or more comprising the aggregate of—

- (i) any period during which the person leaves HSC employment, and
- (ii) any period during which the person is treated as never having been an active member of that Section in accordance with paragraph (3) of regulation 9 of those Regulations in respect of one or more later periods of HSC employment entered into after having given the notice for the purposes of paragraph (1) or (1A) of that regulation;

(i) the person—

- (i) has given notice for the purposes of regulation 9 of the 1995 Regulations (Opting-out of the scheme) and as a result of that notice all of that person’s HSC employments ceased to be superannuable employment for the purposes of those Regulations,

- (ii) is not entitled to a pension (including a deferred pension) under those Regulations, and
 - (iii) has been treated as ceasing to be in superannuable employment under the 1995 Regulations for a period of 12 months or more;
- (j) the person—
- (i) has given notice for the purposes of regulation 9 of the 1995 Regulations (Opting-out of the scheme) and as a result of that notice all of that person’s HSC employments ceased to be superannuable employment for the purposes of those Regulations,
 - (ii) is not entitled to a pension (including a deferred pension) under those Regulations, and
 - (iii) has, in respect of the HSC employments referred to in head (i), either received a repayment of contributions or exercised the right to a transfer payment under Part VI of those Regulations.”.

Substitution of regulation 21A

20. For regulation 21A (Eligibility: transitional), substitute—

“Eligibility: transitional

21A.—(1) A person is eligible to be an active member of this Section of the Scheme if—

- (a) the person is not prevented from being so by regulation 22, 23 or 26, and
- (b) either—
 - (i) the Department has accepted that person’s option to join this Section of Scheme under Chapter 10 of Part 2, or
 - (ii) that person meets all of the requirements in paragraph (2).

(2) Those requirements are that the person—

- (a) is under age 75,
- (b) was an active member of the 1995 Section on or after 1st April 2008,
- (c) became a pensioner member of the 1995 Section on or before 1st October 2009,
- (d) has either—
 - (i) returned to HSC employment since becoming a pensioner member referred to in sub-paragraph (c), or
 - (ii) commenced for the first time HSC employment, and
- (e) is not eligible to be an active member of the 1995 Section in respect of the employment referred to in sub-paragraph (d).

This is subject to paragraphs (3) to (8).

(3) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the end of Waiting Period A, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

- (a) 12 (Normal retirement pension),
- (b) 13A(3)(a) (tier 1 ill-health pension on early retirement),

(c) 14A (Early retirement pension (termination of employment by employing authority)), or

(d) 16 (Early retirement pension with actuarial reduction).

(4) A person referred to in paragraph (2) shall be eligible to be an active member of this Section of the Scheme, from the day immediately following the longer of Waiting Period A and Waiting Period B, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

(a) 13 (Early retirement pension (ill health)),

(b) 14 (Early retirement pension (redundancy etc)).

(5) If a person referred to in paragraph (2) is entitled to a pension under regulation 13A(3) (b) (tier 2 ill-health pension on early retirement), that person shall be eligible to be an active member of this Section of the Scheme from the day immediately following whichever of the following occurs last—

(a) the anniversary of that person entering HSC employment, or

(b) the end of Waiting Period A.

(6) A person to whom paragraph (1)(b)(i) or (3)(b) applies and who is entitled to a tier 1 ill-health pension under regulation 13A(3)(a) of the 1995 Regulations, ceases to be eligible to be an active member of this Section of the Scheme from the date the Department makes a determination that that person is entitled to a tier 2 ill-health pension in place of that tier 1 ill-health pension under regulation 13B(3) of those Regulations (Re-assessment of ill-health condition determined under regulation 13A).

(7) For the purposes of this regulation—

(a) “Waiting Period A” is a period of two calendar years beginning on the day the person becomes entitled to the pension under the 1995 Regulations;

(b) “Waiting Period B” is a period beginning on the day the person becomes entitled to the pension under the 1995 Regulations which is equal to the calendar length of—

(i) any increase to the person’s superannuable service in the 1995 Section which has been applied in accordance with paragraph (3) of regulation 13 of the 1995 Regulations (Early retirement pension (ill health)), or

(ii) any additional service with which the person has been credited in accordance with regulation 5 of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983(4).

(8) This regulation applies to any person who has previously been an active member of a corresponding 1995 scheme as though any reference to—

(a) the “1995 Section” includes a reference to that corresponding 1995 scheme;

(b) the “1995 Regulations” includes a reference to any regulations, orders, rules or other instruments governing that corresponding 1995 scheme;

(c) regulations “12”, “13”, “13A”, “13A(3)(a)”, “13A(3)(b)”, “13B(3)”, “14”, “14A” or “16” includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the 1995 Regulations, and

(d) “regulation 5 of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983” includes the

equivalent of that regulation as it applies to a member of a corresponding 1995 scheme.”.

Amendment of regulation 22

21. For paragraph (2) of regulation 22 (Restrictions on eligibility: general), substitute—

“(2) A person is not eligible to be an active member of this Section of the Scheme if the person—

- (a) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or before, 1st April 2008 (except if paragraph (1)(b)(i) of regulation 21A applies to that person), or
- (b) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or after, that date (except if paragraph (1)(b)(i) or (ii) of regulation 21A applies to that person), or
- (c) is a deferred member of the 1995 Section or a corresponding 1995 scheme, but is not a deferred member—
 - (i) to whom regulation 21(5)(e), (f), (g) or (h) applies, and
 - (ii) in respect of whom permission of the Department to rejoin the 1995 Section has not been granted pursuant to regulation 7(3) of that Section (Restrictions on membership).”.

Amendment of regulation 32

22.—(1) Regulation 32 (Contributions by employing authorities: members becoming entitled to pensions under regulation 55) is amended as provided by paragraphs (2) and (3).

(2) For paragraph (1)(a) substitute—

- “(a) the cost of providing the pension under that regulation for the period between the member leaving the employment in which the member was an active member and reaching the age of 65—
- (i) before any part of that pension is exchanged for a lump sum under regulation 58, and
 - (ii) in the case of a 2008 Section Optant, after that pension is reduced in accordance with regulation 136L;”.

(3) After paragraph (1)(b), add—

“; and

- (c) in the case of a 2008 Section Optant, the additional cost attributable to the early payment of the lump sum to be paid to such an Optant under regulation 136L.”.

Substitution of regulation 43

23. For regulation 43 (Revaluation of increases bought under options: members’ pensions), substitute—

“Revaluation of increases bought under options: members’ pensions

43.—(1) Where an option under regulation 34, 36 or 37 has been exercised, the final amount of the increase in a member’s pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 40 to 42, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971⁽⁵⁾ on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor, to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 40 to 42, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor, to find the final amount referred to in paragraph (1).

(6) In this regulation, “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971 (see section 8(2) of that Act).”.

Amendment of regulation 52

24. After paragraph (18) of regulation 52 (Early retirement on ill-health (active members and non-contributing members)), insert—

“(19) In the case of a Waiting Period Joiner, this regulation is subject to regulation 136ZA.”.

Amendment of regulation 68

25. After paragraph (3) of regulation 68 (Meaning of “surviving nominated partner”), add—
“(4) In the case of a Waiting Period Joiner, this regulation is subject to regulation 136Z.”.

Amendment of regulation 76

26. In paragraph (4) of regulation 76 (Amount of children’s pension under regulation 74: deceased active members and deceased non-contributing members), after “136X” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 136ZC”.

Amendment of regulation 77

27. In paragraph (3) of regulation 77 (Amount of children’s pension under regulation 74: deceased pensioner members), after “136X” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 136ZC”.

Amendment of regulation 78

28. In paragraph (3) of regulation 78 (Amount of children’s pension under regulation 74: deceased deferred members), after “136X” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 136ZC”.

Amendment of regulation 83

29. In paragraph (1) of regulation 83 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 49 employments)), after “136W” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 136ZB”.

Amendment of regulation 87

30. After paragraph (13) of regulation 87 (Payment of lump sums or pensions on death), add—
“(14) In the case of a Waiting Period Joiner, this regulation is subject to regulation 136Z.”.

Amendment of regulation 118

31. For paragraph (6) of regulation 118 (Meaning of “relevant income”), substitute—
“(6) The resulting reduction in the pension is taken into account for the purposes of this regulation if the employed pensioner—
(a) exercised the option under regulation 62 in relation to the old service pension; or
(b) is a 2008 Section Optant who was entitled to a lump sum under regulation 136L in relation to the old service pension.”.

Amendment of regulation 136A

32. After paragraph (1)(b) of regulation 136A (Application of Chapter 10 of this Part), insert—
“(c) both—
(i) became entitled to a pension under regulation 14 or 14A of the 1995 Regulations (which deal with an early retirement pension on the grounds of redundancy and an early retirement pension on termination of employment by employing

authority, respectively) on leaving employment with one employing authority, and

- (ii) elected to continue to be an active member of the 1995 Section in respect of any other continuing pensionable employment in accordance with paragraph (6) of regulation 77 of those Regulations (Members doing more than one job).”.

Amendment of regulation 136B

33.—(1) Regulation 136B (Options for 1995 Section members to join this Section of the Scheme under Chapter 10 of this Part) is amended as provided by paragraphs (2) to (4).

(2) In paragraph (9), after “1995 Section if” insert “either paragraph (9A) applies to that person or that person satisfies all of the following”.

(3) After paragraph (9), insert—

“(9A) This paragraph applies to a person who—

- (a) has ceased to pay contributions in accordance with paragraph (3) or paragraph (4) of regulation 10 of the 1995 Regulations (Contributions by members),
- (b) is continuing in HSC employment, and
- (c) exercises the option before the end of the four month period beginning with the comparative statement issue date.”.

(4) In paragraph (13), for “(4) and (9)” substitute “(4), (9) and (9A)”.

New Chapter 11

34. After Chapter 10 of Part 2 (2008 Section Optants), insert—

“CHAPTER 11

Waiting Period Joiners

136Y Application of Chapter 11 of this Part

(1) This Chapter makes provision in relation to pensioner members of the 1995 Section who are eligible to be members of this Section of the Scheme in accordance with paragraph (1)(b)(ii) of regulation 21A (Eligibility: transitional).

(2) A member of this Section of the Scheme to whom this Chapter applies is referred to as a “Waiting Period Joiner”.

136Z Nominations and notices accepted by the Department under the 1995 Regulations and Chapter 5 of this Part of these Regulations

(1) This regulation applies if—

- (a) on the day a Waiting Period Joiner becomes an active member of this Section of the Scheme—
 - (i) the Department has accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Joiner, and
 - (ii) that Joiner has not revoked that nomination or notice; or
- (b) at any time after a Waiting Period Joiner becomes an active member of this Section of the Scheme, that Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table at paragraph (4).

- (2) The nominations and notices referred to in paragraph (1)(a) are—
- (a) a nomination made in accordance with regulation 22 of the 1995 Regulations (Payment of lump sum) in favour of one or more persons in respect of any lump sum that becomes payable under regulations 18 to 21 of those Regulations (which deal with lump sum payments on the death of a member in different circumstances);
 - (b) a notice provided for the purposes of paragraph (3)(a) of regulation 22 of the 1995 Regulations that the person’s surviving partner (within the meaning of that regulation) is not to receive the payment of any lump sum that becomes payable under regulations 18 to 21 of those Regulations;
 - (c) a notice provided for the purpose of regulation 31E of the 1995 Regulations (Surviving nominated partner’s pension) nominating a partner to receive a surviving nominated partner pension.
- (3) For the purpose of this Section of the Scheme a nomination or notice referred to in paragraph (1)(a) shall be treated—
- (a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Department as a notice for the purposes of regulation 87,
 - (b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Department as a notice for the purposes of regulation 87 specifying that the Waiting Period Joiner’s personal representatives are to receive any lump sum or pension on the death of that Joiner, and
 - (c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Department as a declaration for the purposes of regulation 68.
- (4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table shall, without more, be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

<i>Column 1</i>	<i>Column 2</i>
1995 Regulations	2008 Regulations
22	87
31E	68

136ZA Waiting Period Joiners who are in receipt of a tier 1 ill-health pension under Regulation 13A of the 1995 Regulations

- (1) This regulation applies to a Waiting Period Joiner who—
- (a) is entitled to a tier 1 ill-health pension under regulation 13A of the 1995 Regulations (Ill-health pension on early retirement) in respect of service in the 1995 Section (“the earlier 1995 Section service”); and
 - (b) becomes entitled to a tier 1 ill-health pension or, as the case may be, a tier 2 ill-health pension under regulation 52 in respect of service in this Section of the Scheme (“the later 2008 Section service”).
- (2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.

(3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a tier 1 or a tier 2 ill-health pension under regulation 52 in respect of that later service.

(4) Those benefits are—

- (a) a tier 1 ill-health pension under regulation 13A of the 1995 Regulations in respect of the member's earlier 1995 Section service; and
- (b) a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the member's later 2008 Section service.

This is subject to paragraph (5).

(5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—

- (a) ceases to be entitled to a tier 1 ill-health pension in respect of the earlier 1995 Section service;
- (b) becomes entitled to a tier 2 ill-health pension in respect of that earlier 1995 Section service in accordance with regulation 13B of the 1995 Regulations (Re-assessment of ill health condition determined under regulation 13A); and
- (c) becomes entitled to a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the later 2008 Section service on the termination of that later service.

(6) Those benefits are—

- (a) a tier 2 ill-health pension paid in accordance with regulation 13B of the 1995 Regulations in respect of the earlier 1995 Section service; and
- (b) a tier 1 ill-health pension in respect of the later 2008 Section service.

136ZB Lump sum payable on the death of a Waiting Period Joiner

(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner's death, is an active or a non-contributing member in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) The lump sum payable on the death of a Joiner referred to in paragraph (1) shall be calculated in accordance with whichever of paragraphs (3) to (6) applies to that Joiner and shall be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of that Joiner's later 2008 Section service under regulation 83.

(3) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 49, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 52(5) to which that deceased Joiner would have been entitled at that date, multiplied by five.

(4) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 49, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 45 to which that deceased Joiner would have been entitled at that date, multiplied by five.

(5) Where, at the date of a Waiting Period Joiner's death, that Joiner was a non-contributing member who had not exercised the option under regulation 49, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which that Joiner would have been entitled under regulation 45 on the last day of that Joiner's pensionable service, multiplied by five.

(6) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member or a non-contributing member who had exercised the option under regulation 49, the lump sum referred to in paragraph (2) shall be determined by the Department after taking advice from the Scheme actuary.

136ZC Children's pensions payable on the death of a Waiting Period Joiner

(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the Scheme, where at the date of that Joiner's death that Joiner was an active, non-contributing, pensioner or deferred member who was entitled to a pension under the 1995 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service").

(2) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was an active or non-contributing member, "relevant service" for the purposes of paragraph (4) of regulation 76 shall have the meaning given in paragraph (3).

(3) "Relevant service" means—

(a) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death, an active member, the greater of—

(i) the pensionable service that Joiner was entitled to count at that date, increased by the enhancement period (if any) that would have applied for the purposes of regulation 52(5) if that Joiner had become entitled to a tier 2 ill-health pension at that date, and

(ii) that Joiner's later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service as an active member; and

(bb) 10 years pensionable service,

where the amount of service in paragraph (aa) is less than that specified in paragraph (bb);

(b) in the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the Scheme on the date of that Joiner's death.

(4) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was a pensioner member, "the basic death pension" for the purposes of paragraph (3) of regulation 77 shall have the meaning given in paragraph (5).

(5) The "basic death pension" means the greater of—

(a) 75% of the deceased Waiting Period Joiner's annual pension (disregarding any additional pension); and

(b) 75% of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service plus the difference between—

(i) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service, and

(ii) 10 years pensionable service,

where the amount of service in head (i) is less than that specified in head (ii).

(6) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner’s death was a deferred member, “the basic death pension” for the purposes of paragraph (3) of regulation 78 shall have the meaning given in paragraph (7).

(7) The “basic death pension” means—

- (a) if the deceased Waiting Period Joiner died within 12 months after ceasing to be an active member or a non-contributing member, the amount that would be the basic death pension for the purposes of regulation 76 if that Joiner had died on the day of so ceasing (disregarding any additional pension); and
- (b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—
 - (i) 75% of the pension to which that Joiner would have been entitled if that Joiner had become entitled to a pension under regulation 45 on the date of death (disregarding any additional pension), and
 - (ii) 75% of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner’s later 2008 Section service that has been deferred plus the difference between—
 - (aa) the aggregate of that Joiner’s earlier 1995 Section service and the later 2008 Section service that has been deferred; and
 - (bb) 10 years pensionable service,
 where the amount of service in paragraph (aa) is less than that specified in paragraph (bb).”.

Amendment of regulation 137

35. In regulation 137 (Interpretation of Part 3: general)—

- (a) in the definition of “GMS practice”—
 - (i) in paragraph (a), after “registered medical practitioner” insert “who is a principal medical practitioner”;
 - (ii) in paragraph (b), after “or more” insert “such”;
- (b) in paragraph (a) of the definition of “host Board” for “registered medical practitioner” substitute “principal medical practitioner”;
- (c) in the definition of “ophthalmic provider”, after “who” insert “is a principal medical practitioner and who”;
- (d) after paragraph (b) of the definition of “practitioner”, add—
 - “or
 - (c) an ophthalmic provider”;
- (e) at the appropriate place in the alphabetical order, insert—
 - ““registered medical practitioner” has the meaning given in section 55 of the Medical Act 1983(6);
 - “Waiting Period Joiner” has the meaning given in regulation 260X;”.

Amendment of regulation 148

36. For paragraph (1) of regulation 148 (Distribution of pensionable earnings between principal dental practitioners employed or engaged by the same GDS provider), substitute—

“(1) After the end of each financial year, each GDS provider must by a date to be decided by the Department, send to the employing authority with which that provider is a party to GDS arrangements a notice (in the format specified by the Department), specifying in respect of that financial year—

- (a) the pensionable earnings ceiling for those arrangements;
- (b) the amount of any monthly seniority payments, maternity leave payments, paternity leave payments, adoption leave payments, parental leave payments or sickness leave payments paid under those arrangements;
- (c) how much of the practitioner income that relates to those arrangements each principal dental practitioner that performed services under those arrangements is to be treated as having earned during that financial year, and
- (d) any partners, shareholders or directors of that provider.”.

Amendment of regulation 153

37. After paragraph (5)(f) of regulation 153 (Eligibility: general), add—

- “(g) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation 9 of the 1995 Regulations (Opting out of the Scheme) and—
 - (i) as result of that notice has been treated as ceasing to be an active member of that Section, and
 - (ii) pursuant to that notice remains opted-out of that Section for five years or more.
- (h) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation 9 of the 1995 Regulations (Opting out of the Scheme) and following that notice, has ceased to be an active member of that Section for any one period of five or more years comprising the aggregate of—
 - (i) any period during which the person leaves HSC employment, and
 - (ii) any period during which the person is treated as never having been an active member of that Section in accordance with paragraph (3) of regulation 9 of those Regulations in respect of one or more later periods of HSC employment entered into after having given the notice for the purposes of paragraph (1) or (1A) of that regulation;
- (i) the person—
 - (i) has given notice for the purposes of regulation 9 of the 1995 Regulations (Opting-out of the scheme) and as a result of that notice all of that person’s HSC employments ceased to be superannuable employment for the purposes of those Regulations,
 - (ii) is not entitled to a pension (including a deferred pension) under those Regulations, and
 - (iii) has been treated as ceasing to be in superannuable employment under the 1995 Regulations for a period of 12 months or more;
- (j) the person—
 - (i) has given notice for the purposes of regulation 9 of the 1995 Regulations (Opting-out of the scheme) and as a result of that notice all of that person’s HSC employments ceased to be superannuable employment for the purposes of those Regulations,

- (ii) is not entitled to a pension (including a deferred pension) under those Regulations, and
- (iii) has, in respect of the HSC employments referred to in head (i), either received a repayment of contributions or exercised the right to a transfer payment under Part VI of those Regulations”.

Substitution of regulation 153A

38. For regulation 153A (Eligibility: transitional), substitute—

“Eligibility: transitional

153A.—(1) A person is eligible to be an active member of this Section of the Scheme if—

- (a) the person is not prevented from being so by regulation 154 or 158; and
- (b) either—
 - (i) the Department has accepted that person’s option to join this Section of Scheme under Chapter 10 of this Part, or
 - (ii) that person meets all of the requirements in paragraph (2).
- (2) Those requirements are that the person—
 - (a) is under age 75;
 - (b) was an active member of the 1995 Section on or after 1st April 2008;
 - (c) became a pensioner member of the 1995 Section on, or before, 1st October 2009;
 - (d) has either—
 - (i) returned to HSC employment since becoming a pensioner member referred to in sub-paragraph (c), or
 - (ii) commenced for the first time HSC employment; and
 - (e) is not eligible to be an active member of the 1995 Section in respect of the employment referred to in sub-paragraph (d).

This is subject to paragraphs (3) to (8).

(3) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the end of Waiting Period A, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

- (a) 12 (Normal retirement pension);
- (b) 13A(3)(a) (tier 1 ill-health pension on early retirement);
- (c) 14A (Early retirement pension (termination of employment by employing authority)); or
- (d) 16 (Early retirement pension with (actuarial reduction)).

(4) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the longer of Waiting Period A and Waiting Period B, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

- (a) 13 (Early retirement pension (ill health));
- (b) 14 (Early retirement pension (redundancy etc additional provisions)),

(5) If a person referred to in paragraph (2) is entitled to a pension under regulation 13A(3)(b) (tier 2 ill-health pension on early retirement), that person shall be eligible to be an active member of this Section of the Scheme from the day immediately following whichever of the following occurs last —

- (a) the anniversary of that person entering HSC employment; or
- (b) the end of Waiting Period A.

(6) A person to whom paragraph (1)(b)(i) or (3)(b) applies and who is entitled to a tier 1 ill-health pension under regulation 13A(3)(a) of the 1995 Regulations, ceases to be eligible to be an active member of this Section of the Scheme from the date the Department makes a determination that that person is entitled to a tier 2 ill-health pension in place of that tier 1 ill-health pension under regulation 13B(3) of those Regulations (Re-assessment of ill-health condition determined under regulation 13A).

(7) For the purposes of this regulation—

- (a) “Waiting Period A” is a period of two calendar years beginning on the day the person becomes entitled to the pension under the 1995 Regulations;
- (b) “Waiting Period B” is a period beginning on the day the person becomes entitled to the pension under the 1995 Regulations equal to the calendar length of—
 - (i) any increase to the person’s superannuable service in the 1995 Section of the Scheme which has been applied in accordance with paragraph (3) of regulation 13 of the 1995 Regulations; or
 - (ii) any additional service with which the person has been credited in accordance with regulation 5 of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983(7).

(8) This regulation applies to any person who has previously been an active member of a corresponding 1995 scheme as though any reference to—

- (a) the “1995 Section” includes a reference to that corresponding 1995 scheme;
- (b) the “1995 Regulations” includes a reference to any regulations, orders, rules or other instruments governing that corresponding 1995 scheme;
- (c) regulations “12”, “13”, “13A”, “13A(3)(a)”, “13A(3)(b)”, “13B(3)”, “14”, “14A” or “16” includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the 1995 Regulations; and
- (d) “regulation 5 of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983” includes the equivalent of that regulation as it applies to a member of a corresponding 1995 scheme.”.

Amendment of regulation 154

39. For paragraph (1) of regulation 154 (Restrictions on eligibility: general), substitute—

“(1) A person is not eligible to be an active member of this Section of the Scheme if the person—

- (a) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or before, 1st April 2008 (except if paragraph (1)(b)(i) of regulation 153A applies to that person); or

- (b) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or after, that date (except if paragraph (1)(b)(i) or (ii) of regulation 153A applies to that person); or
- (c) is a deferred member of the 1995 Section or a corresponding 1995 scheme, but is not a deferred member—
 - (i) to whom regulation 153(5)(e), (f), (g) or (h) applies, and
 - (ii) in respect of whom permission of the Department to rejoin the 1995 Section has not been granted pursuant to regulation 7(3) of that Section.”.

Substitution of regulation 174

40. For regulation 174 (Revaluation of increases bought under options: members’ pensions), substitute—

“Revaluation of increases bought under options: members’ pensions

174.—(1) Where an option under regulation 165, 167 or 168 has been exercised, the final amount of the increase in a member’s pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 171 to 173, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor, to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 - Calculate the basic amount of the increase in accordance with regulations 171 to 173, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the

same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).

(6) In this regulation, “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act (Northern Ireland) 1971 (see section 8(2) of that Act).”.

Amendment of regulation 182

41. After paragraph (18) of regulation 182 (Early retirement on ill-health (active members and non-contributing members)), add—

“(19) In the case of a Waiting Period Joiner, this regulation is subject to regulation 260Z.”.

Amendment of regulation 195

42. After paragraph (3) of regulation 195 (Meaning of “surviving nominated partner”), add—

“(4) In the case of a Waiting Period Joiner, this regulation is subject to regulation 260Y.”.

Amendment of regulation 203

43. In paragraph (3) of regulation 203 (Amount of children’s pension under regulation 201: deceased active members and deceased non-contributing members), after “260W” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 260ZB.”.

Amendment of regulation 204

44. In paragraph (3) of regulation 204 (Amount of children’s pension under regulation 201: deceased pensioner members), after “260W” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 260ZB.”.

Amendment of regulation 205

45. In paragraph (3) of regulation 205 (Amount of children’s pension under regulation 201: deceased deferred members), after “260W” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 260ZB.”.

Amendment of regulation 210

46. In paragraph (1) of regulation 210 (Amount of lump sum: single capacity members and recent leavers (disregarding regulation 180 employments)), after “260V” (in the full out words) add “and in the case of a Waiting Period Joiner, this is subject to regulation 260ZA.”.

Amendment of regulation 214

47. After paragraph (13) of regulation 214 (Payment of lump sums or pensions on death), add—

“(14) In the case of a Waiting Period Joiner, this regulation is subject to regulation 260Y.”.

Amendment of regulation 244

- 48.** In regulation 244 (Meaning of “relevant income”), after paragraph (5), insert—
- “(5A) The resulting reduction in the pension is taken into account for the purposes of this regulation if the employed pensioner—
- (a) exercised the option under regulation 189 (Election to allocate pension) in relation to the old service pension; or
 - (b) is a 2008 Section Optant who was entitled to a lump sum under regulation 260K in relation to the old service pension.”.

Amendment of regulation 260A

- 49.** In paragraph (1) of regulation 260A (Application of Chapter 10 of this Part)—
- (a) at the end of sub-paragraph (a), omit “and”;
 - (b) after sub-paragraph (b), insert—
 - “(c) are pensioner members of the 1995 Section in respect of a pension payable under regulation 14 or 14A of the 1995 Regulations (which deal with an early retirement pension on the grounds of redundancy and an early retirement pension on termination of employment by employing authority, respectively).”.

Amendment of regulation 260B

- 50.**—(1) Regulation 260B (Options for 1995 Section members to join this Section of the Scheme under Chapter 10 of this Part) is amended as provided by paragraphs (2) to (4).
- (2) In paragraph (9), after “1995 Section if” insert “either paragraph (9A) applies to that person or that person satisfies all of the following”.
- (3) After paragraph (9), insert—
- “(9A) This paragraph applies to a person who—
- (a) has ceased to pay contributions in accordance with paragraph (3) or paragraph (4) of regulation 10 of the 1995 Regulations (Contributions by members);
 - (b) is continuing in HSC employment; and
 - (c) exercises the option before the end of the four month period beginning with the comparative statement issue date.”.

(4) In paragraph (13), for “(4) and (9)” substitute “(4), (9) and (9A)”.

New Chapter 11

- 51.** After Chapter 10 of Part 3 (2008 Section Optants), insert—

“CHAPTER 11

Waiting Period Joiners

260X Application of Chapter 11 of this Part

- (1) This Chapter makes provision in relation to pensioner members of the 1995 Section of the Scheme who are eligible to be members of this Section of the Scheme in accordance with paragraph (1)(b)(ii) of regulation 153A (Eligibility: transitional).
- (2) A member of this Section of the Scheme to whom this Chapter applies is referred to as a “Waiting Period Joiner”.

260Y Nominations and notices accepted by the Department under the 1995 Regulations and Chapter 5 of this Part of these Regulations

- (1) This regulation applies if—
 - (a) on the day a Waiting Period Joiner becomes an active member of this Section of the Scheme—
 - (i) the Department has accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Joiner, and
 - (ii) that Joiner has not revoked that nomination or notice; or
 - (b) at any time after a Waiting Period Joiner becomes an active member of this Section of the Scheme, that Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table at paragraph (4).
- (2) The nominations and notices referred to in paragraph (1)(a) are—
 - (a) a nomination made in accordance with regulation 22 of the 1995 Regulations (Payment of lump sum) in favour of one or more persons in respect of any lump sum that becomes payable under regulations 18 to 21 of those Regulations (which deal with lump sum payments on the death of a member in different circumstances);
 - (b) a notice provided for the purposes of paragraph (3)(a) of regulation 22 of the 1995 Regulations that the person’s surviving partner (within the meaning of that regulation) is not to receive the payment of any lump sum that becomes payable under regulations 18 to 21 of those Regulations;
 - (c) a notice provided for the purpose of regulation 31E of the 1995 Regulations (Surviving nominated partner’s pension) nominating a partner to receive a surviving nominated partner pension.
- (3) For the purpose of this Section of the Scheme a nomination or notice referred to in paragraph (1)(a) shall be treated—
 - (a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Department as a notice for the purposes of regulation 214;
 - (b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Department as a notice for the purposes of regulation 214 specifying that the Waiting Period Joiner’s personal representatives are to receive any lump sum or pension on the death of that Joiner; and
 - (c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Department as a declaration for the purposes of regulation 195.
- (4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table shall, without more, be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

<i>Column 1</i>	<i>Column 2</i>
1995 Regulations	2008 Regulations
22	214
31E	195

260Z Waiting Period Joiners who are in receipt of a tier 1 ill-health pension under Regulation 13A of the 1995 Regulations

- (1) This regulation applies to a Waiting Period Joiner who—
- (a) is entitled to a tier 1 ill-health pension under regulation 13A of the 1995 Regulations (Ill-health pension on early retirement) in respect of service in the 1995 Section (“the earlier 1995 Section service”); and
 - (b) becomes entitled to a tier 1 ill-health pension or, as the case may be, a tier 2 ill-health pension under regulation 182 in respect of service in this Section of the Scheme (“the later 2008 Section service”).

(2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.

(3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a tier 1 or a tier 2 ill-health pension under regulation 182 in respect of that later service.

- (4) Those benefits are—
- (a) a tier 1 ill-health pension under regulation 13A of the 1995 Regulations in respect of the member’s earlier 1995 Section service; and
 - (b) a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the member’s later 2008 Section service.

This is subject to paragraph (5).

(5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—

- (a) ceases to be entitled to a tier 1 ill-health pension in respect of the earlier 1995 Section service;
 - (b) becomes entitled to a tier 2 ill-health pension in respect of that earlier 1995 Section service in accordance with regulation 13B of the 1995 Regulations (Re-assessment of ill health condition determined under regulation 13A); and
 - (c) becomes entitled to a tier 1 or, as the case may be, tier 2 ill-health pension in respect of the later 2008 Section service on the termination of that later service.
- (6) Those benefits are—
- (a) a tier 2 ill-health pension paid in accordance with regulation 13B of the 1995 Regulations in respect of the earlier 1995 Section service; and
 - (b) a tier 1 ill-health pension in respect of the later 2008 Section service.

260ZA Lump sum payable on the death of a Waiting Period Joiner

(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner’s death, is an active or a non-contributing member in respect of service in this Section of the Scheme (“the later 2008 Section service”).

(2) The lump sum payable on the death of a Joiner referred to in paragraph (1) shall be calculated in accordance with whichever of paragraphs (3) to (6) applies to that Joiner and shall be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of that Joiner’s later 2008 Section service under regulation 210.

(3) Where, at the date of a Waiting Period Joiner’s death, that Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual

rate of pension payable under regulation 182(5) to which that deceased Joiner would have been entitled at that date, multiplied by five.

(4) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 176 to which that deceased Joiner would have been entitled at that date, multiplied by five.

(5) Where, at the date of a Waiting Period Joiner's death, that Joiner was a non-contributing member who had not exercised the option under regulation 180, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which that Joiner would have been entitled under regulation 176 on the last day of that Joiner's pensionable service, multiplied by five.

(6) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member or a non-contributing member who had exercised the option under regulation 180, the lump sum referred to in paragraph (2) shall be determined by the Department after taking advice from the Scheme actuary.

260ZB Children's pensions payable on the death of a Waiting Period Joiner

(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the Scheme, where at the date of that Joiner's death that Joiner was an active, non-contributing, pensioner or deferred member who was entitled to a pension under the 1995 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service").

(2) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death, was an active or non-contributing member, "the basic death pension" for the purposes of paragraph (3) of regulation 203 shall have the meaning given in paragraph (3).

(3) The "basic death pension" means twice the appropriate proportion of the deceased member's pension under regulation 176 and—

(a) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death, an active member that pension includes the greater of—

(i) any increase due to such enhancement period that would have applied for the purposes of regulation 182(5) if that Joiner had become entitled to a tier 2 ill-health pension at that date, and

(ii) that Joiner's later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service as an active member; and

(bb) 10 years pensionable service,

where the amount of service in paragraph (aa) is less than that specified in paragraph (bb);

(b) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the Scheme on the date of that Joiner's death.

(4) In the case of a deceased Waiting Period Joiner who was a pensioner member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 204 shall have the meaning given in paragraph (5).

(5) The "basic death pension" means the greater of—

- (a) twice the appropriate proportion of the deceased Waiting Period Joiner's annual pension (disregarding any additional pension); and
- (b) twice the appropriate proportion of the annual pension (disregarding any additional pension), to which that Joiner would have been entitled calculated as the aggregate of that Joiner's later 2008 Section service plus the difference between—
 - (i) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service, and
 - (ii) 10 years pensionable service,

where the amount of service in head (i) is less than that specified in head (ii).

(6) In the case of a deceased Waiting Period Joiner who was a deferred member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 205 shall have the meaning given in paragraph (7).

(7) The "basic death pension" means—

- (a) if the deceased Waiting Period Joiner died within 12 months of the day on which that Joiner ceased to be an active member or a non-contributing member (the cessation date), the amount that would be the basic death pension for the purposes of regulation 203 if that Joiner had died on the cessation date (disregarding any additional pension), and
- (b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—
 - (i) twice the appropriate proportion of the pension to which that Joiner would have been entitled if that joiner had become entitled to a pension under regulation 176 on the date of death (disregarding any additional pension), and
 - (ii) twice the appropriate proportion of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service that has been deferred plus the difference between—
 - (aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service that has been deferred, and
 - (bb) 10 years pensionable service,

where the amount of service in paragraph (aa) is less than that specified in paragraph (bb)."