\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATUTORY RULES OF NORTHERN IRELAND (at 1/4/2015)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **No. 95**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Health and Personal Social Services (Superannuation)**

**Regulations (Northern Ireland) 1995**

*Made . . . . . . 15th March 1995*

*Coming into operation . . 1st April 1995*

ARRANGEMENT OF REGULATIONS

**PART 1**

**PRELIMINARY**

1. Citation and commencement
2. Interpretation

2A Approved Out of Hours Providers

2B. Change of name of HPSS employment

1. Meaning of “superannuable pay”
2. Meaning of “superannuable service”
3. Meaning of “qualifying service”

**PART II**

**MEMBERSHIP**

1. Membership of the this Section of Scheme
2. Restrictions on membership
3. Restriction on further participation in this Section of the Scheme
4. Opting-out of this Section of the Scheme

9A. Opting into this Section of the Scheme: Mis-sold Pensions

1. Contributions by members
2. Contributions by employing authorities

11A Further contributions by employing authorities in respect of excessive pay increases

**PART III**

**BENEFITS**

1. Normal retirement pension
2. Early retirement pension (ill-health)

13A. Ill health pension on early retirement

13B. Re-assessment of Ill Health condition determined under regulation 13A

13C. Further employment after a benefit is paid under regulation 13A

1. Early retirement pension (redundancy etc)

14A. Early retirement pension (termination of employment by employing authority)

14B. Early retirement pension (redundancy etc notifications)

14C. Early retirement pension (special classes)

14D. Continuing entitlement to a pension under regulation 12 or 16

1. ***Revoked***
2. Early retirement pension (with actuarial reduction)
3. Lump sum on retirement

17A. General option to exchange part of pension for lump sum

**LUMP SUM ON DEATH**

1. Member dies in superannuable employment
2. Member dies after pension becomes payable
3. Member dies with preserved pension
4. Member dies within 12 months after leaving superannuable employment without pension or preserved pension
5. Payment of lump sum

**SURVIVING PARTNER PENSIONS**

1. Widow’s pension
2. Member dies in superannuable employment
3. Member dies after pension becomes payable
4. Member dies with preserved pension
5. Member dies within 12 months after leaving superannuable employment without pension or preserved pension
6. Member marries after leaving superannuable employment
7. Widower’s pension
8. Dependent widower’s pension
9. Increased widower’s pension

31A. Surviving civil partner’s pension

31B. Dependant surviving civil partner’s pension

31C. Purchase of surviving civil partner’s pension in respect of service prior to 6th April 2008

31D. Increased surviving civil partner’s pension

31E. Surviving nominated partner’s pension

31F. Dependant surviving nominated partner’s pension

31G. Purchase of surviving partner’s pension in respect of service before 6th April 2008

31H. Increased surviving partner’s pension

**CHILD ALLOWANCE**

1. Dependent child
2. Payment of allowance
3. Member dies in superannuable employment
4. Member dies after pension becomes payable
5. Member dies with preserved pension
6. Member dies within 12 months after leaving superannuable employment without pension or preserved pension
7. Child not dependent on surviving parent or spouse of a parent

**ALLOCATION TO A SPOUSE OR A DEPENDANT**

1. Allocation of pension
2. Limits on allocation of pension
3. Date on which allocation has effect

**PART IV**

**CONTRACTING-OUT REQUIREMENTS**

1. Contracting-out requirements to be overriding
2. Guaranteed minimum pensions
3. Late retirement
4. Early leavers
5. Guaranteed minimum pensions transferred to the Scheme
6. Protected rights transferred to the Scheme
7. State scheme premiums

**PART V**

**EARLY LEAVERS**

1. Preserved pension
2. Refund of contributions
3. Payment of interest with refund of contributions
4. Early leavers returning to superannuable employment

**PART VI**

**TRANSFERS AND BUY-OUTS**

1. Member’s right to transfer or buy-out
2. Exercising a right to transfer or buy-out
3. Amount of member’s cash equivalent
4. Applications for transfer value payments: General
5. Applications for transfer value payments: time limits
6. Special terms for transfer out (bulk transfers etc)
7. Member’s right to transfer a preserved pension to the 2008 Scheme Section

59A Member’s right to transfer a preserved pension to the 2015 Scheme

**TRANSFERS FROM OTHER PENSION ARRANGEMENTS**

1. Member’s right to transfer accrued rights to benefits to this Section of the scheme
2. Transfers made under the Public Sector Transfer Arrangements
3. Transfers that are not made under the Public Sector Transfer Arrangements

62A. Transfers in respect of members to whom regulation 9A applies who elect to join or rejoin the scheme

1. Special terms for transfers in (bulk transfers etc)
2. ***Revoked***

**PART VII**

**MEMBERS ABSENT FROM WORK**

1. Absence because of illness or injury or certain types of leave
2. Other leave of absence

**PART VIII**

**RIGHT TO BUY ADDITIONAL SERVICE AND UNREDUCED RETIREMENT**

**LUMP SUM**

1. Right to buy additional service
2. Right to buy an unreduced retirement lump sum
3. Electing to buy additional service or unreduced retirement lump sum
4. Paying for additional service by single payment
5. Paying for unreduced retirement lump sum by single payment
6. Paying for additional service or unreduced retirement lump sum by regular additional contributions
7. Part payment for additional service or unreduced retirement lump sum

73A. Option to pay additional periodical contributions to purchase additional pension

73B. Effect of member being absent or leaving and rejoining the Scheme during the contribution

option period

73C. Members option to pay lump sum contributions to purchase additional pension

73D. Payment of additional lump sum contributions by employing authority

73E. Exercise of options under regulations 73A, 73C and 73D

73F. Cancellation and cessation of options under regulation 73A

73G. Effect of payment of additional contributions under this Part

73H. Effect of death or early payment of pension after option exercised under regulation 73A,73C or 73D

73I. Effect of part payment of periodical contributions

73J. Revaluation of increases bought under options: members’ pensions

**PART IX**

**SPECIAL PROVISIONS FOR CERTAIN MEMBERS**

1. Practitioners and trainee practitioners
2. Nurses, physiotherapists, midwives and health visitors
3. Mental health officers
4. Members doing more than one job
5. Part-time employment
6. Members entitled to fees for domiciliary consultations
7. Members who work temporary additional sessions
8. Former members of health service schemes
9. Members whose earnings are reduced
10. Polygamous marriages

83A. Participators in pilot schemes

83B. Pension Sharing on divorce or nullity of marriage

**PART X**

**MEMBERS WHO RETURN TO EMPLOYMENT AFTER PENSION BECOMES**

**PAYABLE**

1. Suspension of pension on return to HPSS employment
2. Reduction of pension on return to HPSS employment
3. Benefits in respect of superannuable employment after pension becomes payable

86A. Benefits in respect of superannuable employment after pension becomes payable under regulation 13A

1. Benefits on death in superannuable employment after pension under regulation 13 becomes payable

87A. Benefits on death in superannuable employment after pension under regulation 13A becomes payable

**PART XI**

**GENERAL RULES ABOUT BENEFITS**

1. Claims for benefits

88A. Provision of information: continuing entitlement to benefit

1. Deduction of tax

89A. Deduction of tax: further provisions

1. Benefits not assignable
2. Beneficiary who is incapable
3. Offset for crime, negligence or fraud
4. Loss of rights to benefits
5. Commutation of trivial pensions

**PART XII**

**ADMINISTRATIVE MATTERS**

1. Extension of time limits
2. Determination of questions
3. Accounts and actuarial reports

97A. Cost Sharing / Revoked

97B. Interest on late payment of benefits and refunds of contributions

97C. Interest and Administration Charges: Late paid contributions

97D. Benefit information statements

**PART XIII**

**MISCELLANEOUS AND SUPPLEMENTARY**

1. Options to persons detrimentally affected by these Regulations
2. Revocations and savings

**SCHEDULES**

1 - Purchase of additional service and unreduced retirement lump sum

2 – Medical and dental practitioners

2A – Pension Sharing on Divorce or Nullity of Marriage

3 – Revocations

The Department of Health and Social Services, in exercise of the powers conferred by Articles 12 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate as required by Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel for Northern Ireland, hereby makes the following Regulations:

**PART I**

**PRELIMINARY**

*Citation and commencement*

**1.**–(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995.

(2) These Regulations come into operation on 1st April 1995.

*Interpretation*

**2.** In these Regulations –

“the previous Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984

“the 1972 Order” (2005/534) means the Health and Personal Social Services (Northern Ireland) Order

1972;

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the 1997 Order” means the Health Services (Primary Care) (Northern Ireland) Order 1997;

“the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999;

“the 2003 Order” (2005/565) means the General and Specialist Medical Practice (Education, Training

and Qualifications) Order 2003;

“the 2004 Act” means the Finance Act 2004;

“the 2008 Act” means the Pensions (No.2) Act (Northern Ireland) 2008;

“the 2008 Section” means the provisions of the Health and Social Care Superannuation Scheme the rules of which are set out in the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008;

“the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010

“the 2011 Act” means the Finance Act 2011;

“the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014);

“the 2015 Scheme” means the scheme set out in the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015;

“additional services”, with regard to-

(a) a GMS practice, has the meaning given in regulation 2 of the GMS contracts Regulations, or

(b) any other performer or provider of primary medical services, means services which, if

provided by a GMS Practice, would be additional services within the meaning of regulation 2

of those Regulations;

“the Agency” means the Northern Ireland Central Services Agency for the Health and Social Services established under Article 26 of the Health and Personal Social Services (Northern Ireland) Order 1972; **Any reference to the Agency shall be construed as a reference to the Regional Business Services Organisation (RBSO) (S.R. 2010/20 refers)**

“APMS contract” means arrangements under Article 56(2)(b) of the 1972 Order (primary

medical services)between a Health and Social Services Board and an APMS contractor;

“APMS contractor” means a person with whom a Health and Social Services Board has

made arrangements under Article 56(2)(b) of the 1972 Order, but only if that person is also a

person who has entered into, or would be eligible to enter into, a GMS contract for the provision

of primary medical services;

“assistant practitioner” has the meaning given in paragraph 1 of Schedule 2;

“automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act;

“automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14 of those Regulations);

**“**buy-out policy” means a policy of insurance or annuity contract that is appropriate for the purposes of section 15 of the Pension Schemes (Northern Ireland) Act 1993(extinguishment of liability of scheme for pensions secured by insurance policies or annuity contracts) and satisfies any requirements of the Inland Revenue and buy-out shall be construed accordingly;

“cash equivalent” is to be construed in accordance with Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993;

“CCT” means Certificate of Completion of Training awarded under Article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical and Training Board specified in Article 20(3)(a) of that Order;

“certification services” means services related to the provision of medical certificates listed in Schedule 3 to the GMS Contracts Regulations (list of prescribed medical certificates);

“consumer prices index” means the all items consumer prices index published by the Statistics Board of the UK Statistics Authority for the month of February immediately preceding a relevant year;

“contracting-out requirements” means the requirements of section 5(2) of the Pension Schemes (Northern Ireland) Act 1993;

“core hours” means the period beginning 8am and ending at 6:30pm on any day from, and including, Monday to Friday except a public holiday and a local holiday agreed with the Health and Social Services Boards;

“dental hygienist” means a person whose name is included in the roll of dental hygienists referred to in regulation 21 of the Dental Auxiliaries Regulations 1986;

“dental list” means a list kept pursuant to the General Dental Services Regulations (Northern Ireland) Order 1993;

“dental pilot scheme employee” means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by a person providing those services;

“dental therapist” means a person whose name is included in the roll of dental therapists referred to in regulation 25 of the Dental Auxiliaries Regulations 1986;

“dentist performer” means a dentist who has undertaken to provide general dental services (GDS) and whose name is included in a list of dentists prepared by the Agency under regulation 4 of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993;

“Department” means the Department of Health and Social Services;

“dependent child” is to be construed in accordance with regulation 32;

“dispensing services” means the provision of drugs, medicines or appliances that may be provided by a registered medical practitioner in accordance with arrangements made under regulation 12 of the Pharmaceutical Services Regulations 1997 (Arrangement for the provision of pharmaceutical services by doctors);

“electronic communication” has the meaning given in section 15 of the Electronics Communications Act 2000;

“employing authority” means –

(a) ***revoked***

(b)  ***revoked***

(c) ***revoked***

(d) the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland established under Section 5 of the Nurses, Midwives and Health Visitors Act 1979**,**

(e) any other body that is constituted under an enactment relating to health services (in whole or in part) and which the Department agrees to treat as an employing authority for the purposes of this Section of the scheme,

(f) ***revoked***

(g) ***revoked***

(h) an OOH Provider;

(i) an APMS contractor;

(j) a GMS practice;

(k) as regards a person who is subject to a direction made under Article 12(6) of the Superannuation (Northern Ireland) Order 1972 and subject to such modifications to these Regulations as the Department may in any particular case direct, any employer of such a person that the Department agrees to treat as an employing authority for the purposes of these Regulations; (AR)

(l) Health and Social Care Trust (HSC Trust) established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;

(m) Regional Health and Social Care Board (RHSCB) established under section 7(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

(n) Regional Business Services Organisation (RBSO) established under section 14(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

(o) Patient and Client Council (PCC) established under section 16(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

(p) Regional Agency for Public Health and Social Wellbeing (RAPHSW) established

under section 12(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“enactment” includes an Act of Parliament of the United Kingdom, and any provision contained in an order, regulation, rule or other instrument having effect by virtue of such an Act;

“enhanced services” , with regards to-

(a) a GMS practice, has the meaning given in regulation 2 of the GMS Contracts Regulations, or

(b) any other performer or provider of primary medical services, means services which, if

provided by a GMS practice, would be enhanced services within the meaning of regulation 2

of those Regulations;

“essential services” means services required to be provided in accordance with regulation 15 of the GMS Contracts Regulations (whether provided by a GMS practice or an APMS contractor);

“final year’s superannuable pay” has the meaning given in regulation 3(6);

“GDS arrangements” means arrangements for the provision of general dental services under Article 61 of the 1972 Order;

“GDS provider” is a person who is party to GDS arrangements;

“general ophthalmic services” has the meaning given by regulation 2(1) of the General Ophthalmic Services Regulations (Northern Ireland) 2007**;**

“GMS contract” means a contract under Article 57 of the 1972 Order or under Article 13 of the General Medical Services Transitional and Consequential Provisions (No.1) (Northern Ireland) Order 2004;

“the GMS Contract Regulations” means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004;

“GMS practice means” –

(a) a registered medical practitioner who is a principal medical practitioner; or

(b) two or more such individuals practicing in a partnership; or

(c) a company limited by shares,

with whom a Health and Social Services Board has entered into a GMS contract;

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

“GP performer” means a registered medical practitioner, other than a trainee practitioner or a locum practitioner, whose name is included in a medical performers list and who performs essential services, enhanced services, additional services, dispensing services, commissioned services, OOH services or certification services (or a combination thereof)-

(a) under a GMS contract or an APMS contract;

(b) on behalf of an OOH provider, or

(c) under a contract of service or for services with a Health and Social Services Board which

relates to arrangements by it to provide services under Article 56(2)(b) of the 1972 Order;

“GP provider” means a GP performer who is-

(a) a GMS practice or an APMS contractor;

(b) a partner in a partnership that is a GMS practice or an APMS contractor, or

(c) a shareholder in a company limited by shares that is a GMS practice or an APMS contractor;

and who performs medical services as or on behalf of that practice or contractor;

“guaranteed minimum pension” means guaranteed minimum pension, or accrued rights to guaranteed minimum pension, under section 10 of the Pension Schemes (Northern Ireland) Act 1993;

“Health and Social Services Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972**; Any reference to a Health and Social Services Board shall be construed as a reference to the Regional Health and Social Care Board (RHSCB) (S.R. 2010/22 refers)**

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;

“health service scheme” has the meaning given in regulation 81;

“host Health and Social Services Board” means-

(a) in respect of a non-GP provider who is-

(i) a partner in a partnership-

(aa) that is a GMS practice;

(bb) that is an APMS contractor that has entered into an APMS contract for the

provision of primary medical services,

(ii) a shareholder in a company limited in shares that is a GMS practice or an APMS contractor that has entered into an APMS contract for the provision of essential services,

(iii) an individual who is an APMS contractor,

the Health and Social Services Board with which that partnership (in the case of (i)), company (in

the case of (ii)) or contractor (in the case of iii)) has entered into a contract referred to in those provisions;

(b) in respect of a principal practitioner, who has contracted, or entered into an agreement, to provide GMS or APMS means the Regional Health and Social Care Board on whose medical performers list the practitioner’s name appears;

(c) in respect of a principal practitioner, who has undertaken to provide General Dental Services (GDS) and whose name is included in a list of dentists prepared by the Agency under regulation 4 of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993 means the Regional Health and Social Care Board;

“HPSS dental employee” means an individual who in connection with the provision of health services in the HPSS is employed by-

(a) a HSS Trust;

(b) a Health and Social Services Board;

(c) a registered dentist; or

(d) a registered dentist who is providing personal dental services in accordance with a pilot scheme;

“HPSS employment” means employment with an employing authority;

“HSS Trust” means a Health and Social Services Trust established under the Health and Personal Social Services (Northern Ireland) Order 1991;

“locum practitioner” has the meaning given in paragraph 1 of Schedule 2;

“lump sum rule” has the meaning given in section 166 of the 2004 Act;

“lump sum death benefit rule” has the meaning given in section 168 of the 2004 Act;

“medical performers list” means a list of registered medical practitioners prepared and published by a Health and Social Services Board pursuant to regulation 4(1) of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004**;**

“member” means a person who is in superannuable service under this Section of the scheme or a person who has been in such service and in respect of whom benefits under this Section of the scheme are, or will become, payable;

“mental health officer” has the meaning given in regulation 76;

“Non-GP provider” means-

(a) a partner in a partnership that is a GMS practice who is not a GP provider and who is able to

demonstrate to the satisfaction of the Department that he assists in the provision of essential

services;

(b) a partner in a partnership who is an APMS contractor-

(i) that has entered into an APMS contract for the provision of primary medical services, but

(ii) who is not a GP provider and who is able to demonstrate to the satisfaction of the

Department that he assists in the provision of HPSS services provided by that partnership;

(c) a shareholder in a company limited by shares that is-

(i) a GMS practice, or

(ii) an APMS contractor that has entered into an APMS contract for the provision of primary

medical services,

but who is not a GP provider and who demonstrates to the satisfaction of the Department that he assists

in the provision of HPSS services provided by that company;

(d) an individual who is an APMS contractor but who is not a GP provider and who is able to

demonstrate to the satisfaction of the Department that he participates in the provision of

HPSS services;

“normal benefit age” in relation to this Section of the Scheme, means the age of 60;

“normal minimum pension age” has the meaning given in section 279 of the 2004 Act;

“occupational pension scheme” means an occupational pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993 which–

(a) in the case of such a scheme established on, or after, the 6th April 2006 is a registered scheme for the purposes of the 2004 Act and which the Department agrees to recognise as a transferring scheme for the purposes of regulations 53 to 64 (Transfers);

(b) in the case of such a scheme established before that date, was-

(i) approved by the Commissioners for Her Majesty’s Revenue and Customs for the

purposes of Chapter 1 of Part XIV of the Income and Corporation Taxes Act

(Retirement Benefit Schemes) or whose application for approval under that Chapter was

under consideration,

(ii) a statutory scheme as defined in section 612(1) of the Income and Corporation Taxes

Act 1988 (Interpretation), or

(iii) a scheme to which section 608 of the Income and Corporation Taxes Act 1988 applied

(Superannuation funds approved before 6th April 1980),

and on 6th April 2006 became a registered pension scheme for the purposes of the 2004 Act;

“officer” means a person other than a GP Performer employed by an employing authority;

“OOH provider” shall be construed in accordance with regulation 2A;

“OOH services” means such services as are required to be required in the out of hours period and which, if provided during core hours by a GMS practice or an APMS contractor to patients to whom the practice or contractor is required by his contract or agreement to provide essential services, would be or would be similar to essential services;

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

“opting-out” and related expressions are to be construed in accordance with regulation 9;

“out of hour’s period” means-

(a) the period beginning 6:30pm on any day from and including Monday to Thursday and ending

at 8am the following day;

(b) the period between 6:30pm on and including Friday and 8am on the following Monday; and

(c) any public holiday or local holiday agreed with the Health and Social Services Board;

“pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract;

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order or 29(1)(b) of the

Welfare Reform and Pensions Act 1999;

“pension credit benefit” means a credit under Article 26(1)(b) of the 1999 Order or section 29(1)(b) of the Welfare Reform and Pensions Act 1999**;**

“pension credit member” has the meaning given by section 97B of the 1993 Act**;**

“pension credit rights” has the meaning given by section 97B of the 1993 Act;

“pension sharing order or provision” means an order or provision which is mentioned in Article 25(1) of the 1999 Order;

“personal dental services” has the meaning given in Article 3(7) of the 1997 Order;

“personal medical services” has the meaning given in Article 3(7) of the 1997 Order;

“personal pension scheme” means a personal pension scheme which-

(a) in the case of such a scheme established on, or after, 6th April 2006 is a registered pension scheme for the purposes of the 2004 Act and which the Department agrees to recognise as a transferring scheme for the purposes of regulations 53 to 64 (Transfers);

(b) in the case of a scheme established before that date, was-

(i) approved by the Commissioners for Her Majesty’s Revenue and Customs for the

purposes of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 (Personal Pension Schemes); and

(ii) on the 6th April 2006 became a registered pension scheme for the purposes of the 2004

Act;

“pilot scheme” has the meaning given in Article 3(1) of the 1997 Order;

“piloted services” has the meaning given in 3(4) of the 1997 Order;

“practice staff” means a person (other than an assistant practitioner, a principal practitioner, a trainee practitioner or a non-GP provider) employed by a GMS practice, an APMS contractor or an OOH provider to assist in the provision of the services it provides;

“practitioner” means–

(a) a registered medical practitioner, other than a trainee practitioner, who is a locum practitioner, ophthalmic provider, a GP provider or GP performer; or

(b) a registered dentist, other than a person who is paid wholly by way of salary by an

employing authority or a person treated as an officer under regulation 83A;

“preservation requirements” means the requirements of Chapter I of Part IV of the Pension Schemes (Northern Ireland) Act 1993 relating to preservation of benefit under occupational pension schemes;

“principal practitioner” has the meaning given in paragraph 1 of Schedule 2;

“protected pension age” means the pension age provided for in Part 3 of Schedule 36 to the 2004 Act for the purposes of that Part (which deals with pre-commencement benefit rights and the right to take benefit before normal minimum pension age) where conditions specified in that Part are satisfied;

“Public Sector Transfer Arrangements” means the arrangements applying to certain public sector and other schemes under which a common basis for transfer payments is applied by the scheme and those other participating schemes;

“quarter” means a three month period ending on the last day of March, June, September or December;

“qualifying service” has the meaning given in regulation 5;

“registered dentist” has the meaning given in section 53(1) of the Dentists Act 1984;

“registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983;

“relevant daily proportion” means 1/365th of the amount that would apply in respect of one year;

“remuneration” is defined, for the purposes of Tables 1 and 2 of Schedule 1, in regulation 70(4) and 71(4) (paying for additional benefits);

“safeguarded percentage” has the meaning given by section 64A(3) of the 1993 Act**;**

“safeguarded rights” has the meaning given by 64A(1) of the 1993 Act;

“scheme” means the Health and Social Care (Pension Scheme) the rules of which are set out in these regulations and the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008;

“Scheme Actuary” means the actuary appointed from time to time by the Department to provide advice in connection with the scheme;

“scheme year” means a period of one year beginning with the 1st April and ending with the 31st March next following;

“Section 5(2B) rights” has the same meaning as it has in the Pension Schemes (Northern Ireland) Act 1993**;**

“special class officer” means a member to whom regulation 75 (Special provision for certain nurses, physiotherapists, midwives and health visitors) applies;

“specialist” means a consultant, senior hospital medical officer or senior hospital dental officer;

“State pension age” means age 65 for a man and age 60 for a woman;

“superannuable employment” means HSC employment in respect of which the member contributes to

the scheme in accordance with this Section;

“superannuable pay” has the meaning given in regulation 3;

“superannuable service” has the meaning given in regulation 4;

“tax year” means any year beginning 6th April and ending on the 5th April the following year;

“temporary additional session” has the meaning given in regulation 80(3) and (4);

“trainee practitioner” means a GP Registrar and “GP Registrar” means a registered medical practitioner who is being trained in general practice by-

until the coming into operation for all purposes of Article 5 of the 2003 Order, a general medical

practitioner who-

(a) has been approved for that purpose by the Joint Committee on Postgraduate Training for

general practice under regulation 7 of the Medical Practitioners (Vocational Training)

Regulations (Northern Ireland) 1998, and

(b) from the coming into operation for all purposes of that Article, a general medical practitioner

who is approved under that Article for the purpose of providing training under Article 5 of

the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;

“valuation day” means the day referred to in Article 26(7) of the 1999 Order.

*Approved Out of hours Providers*

**2A.**–(1) For the purposes of these Regulations, an “OOH provider” is-

(a) a company limited by guarantee (which is not otherwise an employing authority)-

(i) in which all the members of the Company are registered medical practitioners or

GMS practices, and the majority of those members are-

(aa) APMS contractors or GMS practices whose APMS contracts or GMS contracts,

require them to provide OOH services, or

(bb) registered medical practitioners who are partners or shareholders in an APMS

Contractor or GMS practice which is a partnership or a company limited by

shares and which is required to provide OOH services under an APMS contract

or GMS contract,

(ii) which has a contract with a Health and Social Services Board, an APMS contractor

or a GMS practice for the provision of OOH services; and

(iii) in respect of which a Health and Social Services Board appointed by the Department

to act on its behalf-

(aa) is satisfied that the provision of OOH services by the company is wholly or

mainly a mutual trading activity;

(bb) is satisfied that the company has met all the conditions for being an OOH

provider in this regulation, and

(cc) has, pursuant to a written application made by the company to it for that

purpose, approved the company as an employing authority; or

(b) some other body corporate (which is not otherwise an employing authority) which-

(i) operates in the interests of those who are the recipients of the primary medical

services it provides or of the general public,

(ii) operates on a not-for-profit basis,

(iii) is not an associated company in relation to another person’

(iv) the memorandum of articles or rules of which-

(aa) prohibit the payment of dividends to its members,

(bb) require its profits (if any) or other income to be applied in promoting its objects,

and

(cc) require all assets which would otherwise be available to its members generally

to be transferred on its winding up either to another body which operates on a

not-for-profit basis and whose purpose is to provide health or social care for the

benefit of the community or to another body the objects of which are the

promotion of charity or anything incidental or conducive thereto,

(v) has at least one member who is-

(aa) an APMS contractor or GMS practice,

(bb) a partner in a partnership that is an APMS contractor or GMS practice or,

(cc) a shareholder in a company limited by shares that is an APMS contractor or

a GMS practice,

(vi) has a contract with a Health and Social Services Board, an APMS contractor or a

GMS practice, for the provision of OOH services; and

(vii) and is approved as an employing authority by a Health and Social Services Board

appointed by the Department to act on its behalf-

(aa) pursuant to a written application made by the body to it for that purpose, and

(bb) the Health and social Services Board being satisfied that the body has met all

the conditions for being an OOH provider in this regulation.

(2) For the purposes of paragraph (1)(b)(iii) a body corporate is to be treated as another person’s “associated company” if that person gas control of it, except where that person is an employing authority; and for these purposes, a person shall betaken to have control of a body corporate if he exercises, or is able to exercise, or is entitled to acquire, a direct or indirect control over its affairs.

(3) A company limited by guarantee or other body corporate which provides or is to provide OOH services and which wishes to be approved as an employing authority shall make a written application to a Health and Social Services Board appointed by the Department to act on its behalf (the appointed Health and Social Services Board).

(4) An application referred to in paragraph (3) may specify the date from which approval by the appointed Health and Social Services Board (if given) shall have effect (“the nominated date”).

(5) Where before the 19th December 2005,-

(a) a company limited by guarantee or other body corporate makes an application which contains

a nominated date earlier than the date on which approval is subsequently given (“the

approval date”); and

(b) the appointed Health and Social Services Board is satisfied that, throughout the period

beginning with and including the nominated date and ending with the approval date, the

company or other body has satisfied the conditions for approval,

that approval shall be treated as having been given on the nominated date.

(6) Where, before the 1st March 2006-

(a) a company limited by guarantee or other body corporate makes an application which contains

a nominated date later than the approval date; and

(b) the appointed Health and Social Services Board is satisfied that the company or other body

will satisfy the conditions for approval at that later date,

that approval shall take effect from the nominated date.

(7) Where, on or after 1st March 2006, a company limited by guarantee or other body corporate makes an application and;

(a) the appointed Health and Social Services Board is satisfied that the company or other body

corporate meets the condition for approval or will do so at any nominated date which is later

than the approval date; and

(b) it approves that application,

the approval shall take effect on the later of the nominated date and the approval date.

(8) Where-

(a) paragraph (5) or (6) applies, HPSS employment shall be treating as commencing on the

nominated date;

(b) paragraph (7) applies, it shall be treated as commencing on the later of the nominated date

(if any) and the approval date.

(9) For the purposes of this regulation-

(a) the conditions for approval are those referred to in paragraph (1)(a) or (b) as the case may

be, and

(b) the “nominated date” cannot be a date earlier than 1 April 2004.

(10) The appointed Health and Social Services Board may give an OOH provider a notice in writing terminating its participation in this Section of the scheme where the provider-

(a) does not have in force a guarantee, indemnity or bond as required by the Department in

accordance with regulation 11(8);

(b) has ceased to satisfy the conditions for approval as an employing authority;

(c) has notified the Health and Social Services Board that any one of the following events has

occurred in respect of it-

(i) a proposal for a voluntary arrangement has been made or approved under Part II of the

Insolvency (Northern Ireland) Order 1989,

(ii) an application for an administration order has been made or an administrator has been

appointed under Part III of the 1989 Order,

(iii) a receiver, manager or administrative receiver has been appointed under Part IV of the

1989 Order,

(iv) a winding-up petition has been presented, a winding-up order has been made or a

resolution for voluntary winding up has been passed under Part V of the 1989 Order, or

(v) notice has been received by it that it may be struck off the register of companies or an

application to strike it off has been made under Part XX of the Companies (Northern

Ireland) Order 1986.

(11) An OOH provider-

(a) shall give the appointed Health and Social Services Board notice in writing upon the

occurrence of any of the events referred to in paragraph 10(c) and shall give such notice on

the same day as that event;

(b) that wishes to cease to participate in this Section of the Scheme shall give the

appointed Health and Social Services Board and its employees no less than 3 months notice

in writing (to commence with and include the date of that notice) of that fact.

(12) An OOH provider shall cease to participate in this Section of the Scheme on-

(a) such date as the appointed Health and Social Services Board may specify in a notice under

paragraph (10);

(b) the day upon which the period referred to in paragraph (11)(b) expires where a notice under

that sub-paragraph (b) has been given.

*Change of name of HPSS employment*

**2B.** In these regulations for the words ‘HPSS employment’ in every place where they occur substitute ‘HSC employment’.

*Meaning of “superannuable pay”*

**3.**–(1) In these Regulations “superannuable pay” means subject to the provisions of this regulation-

(a) all salary, wages fees and other regular payments made to a member in respect of

superannuable employment as an officer, but does not include bonuses, pay awards and pay increases that are expressed by the Department to be non-consolidated and payments

made to cover expenses or payments for overtime;

(b) superannuable earnings calculated in accordance with paragraph (3), or as the case

may be, paragraph (4) of Schedule 2 to in the case of a non-GP provider who does not receive any of the payments referred to above in respect of his superannuable

employment as an officer by virtue of the application of these Regulations to him as

if he were an officer under regulation 74 (Practitioners and trainee practitioners).

(1A) Paragraphs (2) to (4) and (5) to (7) apply in respect of superannuable employment before

1st April 2008.

(2) Subject to paragraph (3), any amount by which a member’s superannuable pay exceeds the permitted maximum will be ignored when calculating the amount of any contributions or benefits payable under these Regulations.

(3) In the case of a member who-

(a) joined this Section of the scheme before the 1st June 1989 and has a break in

superannuable employment on or after that date –

(i) any superannuable pay earned preceding the break in that employment in excess of the

permitted maximum will not be ignored,

(ii) any superannuable pay earned after the break in that employment in excess of the

permitted maximum will be ignored;

(b) joined this Section of the scheme before 1st June 1989 and to whom sub-

paragraph (a) does not apply, the superannuable pay in excess of the permitted maximum will

not be ignored.

(3A) Where a member who was eligible to be a member before 1st June 1989 joins this Section of the scheme on or after that date by virtue of being a person to whom regulation 9A applies, any amount to which that member’s superannuable pay exceeds the permitted maximum will not be ignored when calculating the amount of any contributions or benefits payable under these Regulations except in relation to a period following a break in superannuable employment on or after that date.

1. Except for the purposes of paragraphs (3) and (3A), no account shall be taken of a break in superannuable employment if –
2. the member returns to superannuable employment within 12 months after leaving;

1. the break is due to the member’s secondment or posting to another employer and, at the time of the secondment or posting, the member has a definite expectation of returning to superannuable employment when the period of secondment or posting ends;
2. the break is due to the member being engaged in other employment which is approved for this purpose by the Department;
3. the break is due to the member’s unpaid absence from work and the member returns to superannuable employment within one month after returning to work;
4. the break corresponds to the member’s absence from work wholly or partly because of pregnancy or confinement and the member returns to work after the break in exercise of her right under Article 28(1) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976and returns to superannuable employment no later than one month after returning to work; or
5. the break is due to the member opting out of this Section of the scheme as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986.

(4A) Paragraphs (4B) to (7) apply in respect of superannuable employment on, or after 1st April 2008.

(4B) Subject to paragraph (4C), superannuable pay in excess of the permitted maximum will not be ignored.

(4C) Superannuable pay in excess of the permitted maximum will be ignored in respect of additional service being bought under regulation 67 and an unreduced lump sum being bought under regulation 68 if-

(a) the member elected to make such a purchase under regulation 72(3) from a birthday falling

before 1st April 2008; and

(b) the member’s superannuable pay was restricted under paragraph (2) before that date; or

(c) the member’s superannuable pay would have been restricted under that paragraph if it had

exceeded the permitted maximum.

(5) This Regulation applies to a member in respect of whom a transfer payment has been accepted from a health service scheme in the same way as if the period of employment that qualified the member for benefits under the health service scheme had been superannuable employment.

(6) Subject to paragraph (6A) in these Regulations, “final year’s superannuable pay” means superannuable pay in respect of the members last year of superannuable employment ending on the date the member ceases to be in such employment, or dies, whichever occurs first, except -

(a) if superannuable pay was greater in either or both of the 2 consecutive years immediately preceding the last year, “final year’s superannuable pay” means superannuable pay in respect of the year immediately preceding the last year or, if greater, superannuable pay in respect of the first of those 2 consecutive years; and

(b) if the member was in superannuable employment for less than 12 months, “final year’s superannuable pay” means-

superannuable pay x 365

number of days superannuable employment

(6A) If the superannuable pay of a member credited with any period of superannuable service under regulation 61 (Transfers made under the Public Sector Transfer Arrangements) or regulation 63 (Special terms for transfers in (bulk transfers etc)) has exceeded the permitted maximum and either-

(a) paragraph 20 of Schedule 6 to the Finance Act 1989applied to the member without

modification made by regulation 5 of the Retirement Benefits Schemes (Continuation of

Rights of Members of Approved Schemes) Regulations 1990 in respect of benefits derived

from all or part of that service under another scheme; or

(b) any equivalent scheme provision applied to the member in respect of all or part of that

service when that person was a member of the scheme from which the transfer was accepted,

that excess shall be ignored for the purposes of calculating the final year’s superannuable pay under

paragraph (6) in respect of the corresponding period of superannuable service credited under regulation

61 or 63.

(7) In this regulation, “permitted maximum” means-

(a) in relation to any tax year before the tax year 2006-07, the figure specified for that tax year

in an order made under section 590C of the Income and corporation Taxes Act 1988; or

(b) subject to paragraphs (8) and (9), the figure for any later year is £108,600.

(8) If the retail prices index for the month of September preceding the tax year 2007-08 or any later tax year is higher than it was for the previous September, the figure for that year shall be an amount arrived at by-

(a) increasing the figure for the previous tax year by the same percentage as the percentage increase in the retail prices index; and

(b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a

multiple.

(9) If the retail prices index for the month of September preceding the tax year 2007-08 or the month of September preceding any later tax year is not higher than it was for the previous September, the figure for that year shall be the same as for the previous tax year.

(10) Where, having regard to the matters referred to in paragraph (11), the Department considers that the amount which would, but for the Department’s determination under this paragraph, constitute the member’s final year’s superannuable pay is inordinate, determine—

(a) what the amount of that pensionable pay is to be, and

(b) the date from which any change in the amount of that pay as a result of that determination is to take effect.

(11) Those matters are—

(a) any variations in the level of the member’s superannuable pay during a period not exceeding ten years and ending with the earlier of the date the member ceases to be in superannuable employment or the date the member dies;

(b) the general level of superannuable pay pertaining in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);

(a) promotion and re-grading prospects in HSC employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);

(b) any other matters the Department considers relevant.

(12) Where the Department determines the amount of a member’s superannuable pay pursuant to paragraph (10)—

(a) the difference between the amount which would, but for that determination, be the member’s final year’s superannuable pay and the amount so determined shall be ignored for the purposes of this regulation (“the ignored amount”);

(b) any contributions referable to the ignored amount and paid by the member pursuant to regulation 10 or 72, paragraphs 10 or 23 of Schedule 2, must, net of any tax payable, be refunded to that member;

(c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation 11 or paragraphs 10 or 23 of Schedule 2, shall be refunded to that employing authority;

(d) the amount so determined is not be regarded as an “excessive pay increase” for the purposes of regulation 11A.

*Meaning of “superannuable service”*

**4.**–(1) In these Regulations, “superannuable service” is service which counts both for the purpose of ascertaining entitlement to benefits under these Regulations and for the purpose of calculating them and means, subject to paragraph (2), the aggregate of the following –

(a) any period of superannuable employment in respect of which the member contributes to this Section of the scheme under regulation 10 (Contributions by members);

(b) any period that was reckonable under the previous regulations as a period of contributing service for the purpose of those regulations;

(c) any period of contributing service that is reckonable under regulation 3 of the Health Services (Superannuation) (War Service etc) Regulations (Northern Ireland) 1978 (reckoning war service as contributing service under the principal regulations).

(d) any period of superannuable service credited to the member under regulation 60(4) (Members right to transfer accrued rights to benefits to this Section of the scheme) or as a result of a transfer payment to the scheme under the previous regulations; and

* 1. any period of additional service which the member has purchased under regulation 67 (Right to buy additional service) or under regulations 22 and 23 of the previous regulations.

1. A member’s superannuable service does not include –

(a) any period of employment in respect of which the Department has paid contributions to another occupational pension scheme in respect of the member;

(b) in the case of a member who has become entitled to a pension (including a preserved pension) under this Section of the scheme, any period that was taken into account for the purpose of determining whether he was entitled to that pension, or for the purpose of calculating the amount of that pension;

(c) any period of employment in respect of a temporary additional session;

(d) any period in respect of which the Department has discharged its ability to provide benefits under regulation 48 (State scheme premiums), regulation 50 (Refund of contributions) or regulation 53 (Member’s right to transfer or buy-out);

(e) in the case of a member who is not a special class officer, any period of superannuable service in excess of 40 years that relates to a period before-

(i) the member’s 60th birthday; and

(ii) 1st April 2008.

(3) Subject to paragraph (2), the benefits described in these Regulations will be calculated by a reference to a maximum of-

(a) 45 years superannuable service in the case of a member who is not a special class officer;

(b) 45 years superannuable service (of which only 40 years may relate to the period before the

member reaches age 55) in the case of a member who is a special class officer,

and if the member’s superannuable service exceeds these limits, the amount of the excess will be ignored.

(4) Where the member has service in excess of the limits described in paragraph (3), the Department shall select the years by reference to which the benefits are to be calculated.

(5) If, when a member leaves superannuable employment or dies, a payment is made in respect of leave not taken –

(a) the member’s superannuable employment will be treated, subject to paragraph (3), as continuing for a period equal to the period of leave for which payment is made; and

(b) the payment will be treated as the member’s superannuable pay for that period.

(6) In order to calculate the length of a member’s service, all periods of service will be added and each resulting period of 365 days (disregarding service on 29th February in a leap year) will be treated as one year.

*Meaning of “qualifying service”*

**5.**–(1) In these Regulations, “qualifying service” is service which counts for the purpose of ascertaining entitlement to benefits under these Regulations but not for the purpose of calculating them and means the aggregate of the following –

(a) superannuable service under these Regulations, except any period of superannuable service credited to the member under regulation 60(4) (Members right to transfer accrued rights to benefits to the scheme) or any period of additional service referred to in regulation 67 (Right to buy additional service);

(b) where a transfer payment has been accepted under regulation 60(4) (Members right to transfer accrued rights to benefits to the scheme) in respect of the member’s rights under another occupational pension scheme, a personal pension scheme, or a buy-out policy, the period of employment that qualified the member for those rights;

(ba) in the case of a person who-

(i) has become a member on the transfer of his employment to a new employer as a result

of a transfer of an undertaking to that employer; and

(ii) has rights under another occupational pension scheme to which he was eligible to belong

in his former employment in respect of which no transfer payment has been accepted

under regulation 60(1) or 63;

the period of employment that qualified the member for those rights; and

(c) any period reckonable as “service” under the previous Regulations.

(2) If a member leaves and subsequently returns to superannuable employment, paragraphs (3) and (4) will apply for the purpose of calculating the member’s qualifying service.

(3) If the interval between leaving and rejoining superannuable employment does not exceed one month or is due to a trade dispute, the member’s superannuable service before and after the break will be treated as continuous for the purpose of calculating the member’s qualifying service after the break, (even if the member’s superannuable service before and after the break is otherwise treated separately for the purpose of calculating the member’s benefits) except that the interval will be excluded.

(4) If a member is entitled to a preserved pension under regulation 49 in respect of the earlier period of superannuable service (whether or not the pension has become payable), and the periods of superannuable service before and after the break are not treated as continuous under regulation 52 (Early leavers returning to superannuable employment), the period of superannuable service to which that pension relates will be treated as qualifying service in relation to the later period.

(4A) Where a member who is employed on a casual basis-

(a) ceases to pay contributions because of a break in his superannuable employment of a period

not exceeding three months; and

(b) re-enters superannuable employment on the same basis after the break,

for the purposes of these Regulations he is treated as continuing to be in qualifying service, (but not superannuable service) during the break, and as not being required to rejoin this Section of the Scheme when he re-enters superannuable employment.

(5) If a pension becomes payable to a member under regulation 77 (Members doing more than one job) and the member has elected to take a benefit only in respect of the employment that has ended, the superannuable service in respect of which that benefit is calculated will be treated as qualifying service in relation to the employment in respect of which rights to benefits continue to accrue.

(6) If the member is a whole-time chaplain, any period of employment as a whole-time chaplain before joining this Section of the scheme will be treated as qualifying service.

**PART II**

**MEMBERSHIP**

*Membership of this Section of the Scheme*

**6.**–(1) Subject to regulation 7 (Restrictions on membership), the following persons are eligible to join this Section of the scheme –

(a) officers; and

(b) medical and dental practitioners and trainee practitioners.

(2) Subject to paragraph (3), each eligible person will be included in this Section of the scheme—

(a) automatically on commencing HSC employment;

(b) where the person has previously opted out of this Section of the scheme, on the date determined under paragraph (5) of regulation 9 where that paragraph applies: this is subject to regulation 9(6);

(c) subject to regulation 9(6), where the person has previously opted out of this Section of the scheme and is a person to whom section 3 or section 5 of the 2008 Act applies—

(i) on that person’s automatic enrolment date, or

(ii) on that person’s automatic re-enrolment date, except where the notice referred to in regulation 9(1) was given within the 12 months immediately preceding that date.

(3) A person in part-time HPSS employment who, on the coming into operation of these Regulations, is not included in this Section of the scheme shall not be included in this Section of the scheme automatically, but, if eligible, may join this Section of the scheme by applying on a form supplied by the employing authority.

(3A) A person—

(a) who—

(i) was in superannuable employment on 31st March 2012 but ceased to be so after that date, or

(ii) ceased HSC employment before 1st April 2012,

(iii) and is not the subject of a Direction made under Article 12 of the Superannuation (Northern Ireland) Order 1972,

(b) who would, if paragraph (a) did not apply, fall within regulation 8(4) to (18), and

(c) to whom the Treasury’s guidance “Fair Deal for staff pensions: staff transfer from central government” applies,

may, if the Department considers it appropriate and makes a direction under Article 12 of the Superannuation (Northern Ireland) Order 1972, be a member of this Section of the scheme.

(4) A person who is included in this Section of the scheme may opt out at any time in accordance with regulation 9 (Opting out of this Section of the scheme).

*Restrictions on membership*

**7.**-(1) A person may not join this Section of the Scheme if-

(a) that person is-

(i) under the age of 16; or

(ii) over the age of 75; or

(iii) over the age of 70 on or before the 31 March 2008;

(b) that person is a special class officer over the age of 65;

(c) that person is eligible to be an active member of a superannuation scheme established under Article 3 or 11 of the Superannuation (Northern Ireland) Order 1972 in respect of service in that scheme and is such a member;

(d) that person holds an honorary appointment and does not at the same time hold any other employment which entitles him to join this Section of the scheme;

(e) that person is not a practitioner and is employed by a GDS or PDS contractor;

(f) that person enters HSC employment for the first time on, or after 1st April 2008 and has not previously been a member of this Section of the Scheme or a health service scheme corresponding to this Section;

(g) that person, on or after 1st April 2008, returns to or commences HSC employment and was entitled to a refund of contributions under regulation 50 when he last left superannuable employment, unless paragraph (4), but not paragraph (5), of regulation 52 applies to that person;

(h) that person is a person who—

(i) leaves superannuable employment on, or after, 1st April 2008; and

(ii) before returning to or commencing HSC employment, exercises his right to transfer out all of his benefits in this Section of the scheme in accordance with regulation 53 or 54.

(i) that person is a person who has been a member of the 2008 Section;

(j) that person is a person who—

(i) ceased to be in superannuable employment on or before 31st March 2008,

(ii) on so ceasing was entitled to a preserved pension in accordance with regulation 49,

(iii) returns to, or commences for the first time, HSC employment on or after 1st October 2008 and, before that employment starts (whether it is employment that has been returned to or commenced for the first time) exercises the member’s right to transfer out all of that person’s benefits in accordance with regulation 53;

(iv) has had a break in superannuable employment for any one period of five years or more beginning with the day immediately following the cessation of employment referred to in paragraph (i) and ending on the day immediately before the employment referred to in paragraph (iii) commences, and

(v) omitted S.R. 2015 No.122;

(k) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation 49,

(ii) returns to or commences HSC employment on or after 1st October 2008,

(iii) has had a break in superannuable employment for any one period of five years or more beginning with the day immediately following the cessation of the superannuable employment in respect of which that person is entitled to the pension referred to in paragraph (i) and ending on the day immediately before the employment referred to in paragraph (ii) commences, and

(iv) omitted S.R. 2015 No.122;

(l) that person’s pension under a health service scheme is payable and in the opinion of the Department that person would not be eligible to—

(i) join this Section of the Scheme,

(ii) where appropriate, accrue further superannuable service under this Section of the Scheme,

if the superannuable employment to which that health service scheme applied, and in respect of which that pension is being paid, had been superannuable employment in this Section of the Scheme;

(m) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation 49,

(ii) has given notice in accordance with paragraphs (1) or (1A) of regulation 9 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme, and

(iii) as a result of that notice, has been treated as having left all superannuable employments, and

(iv) pursuant to that notice remains opted-out of this Section of the Scheme for any one period of five years or more beginning on the date that notice takes effect;

(n) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation 49,

(ii) has given notice in accordance with paragraphs (1) or (1A) of regulation 9 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme,

(iii) following that notice, has had a break in superannuable employment for any one period of five years or more, comprising the aggregate of—

(aa) any period during which the person leaves HSC employment, and

(bb) any period during which the person is treated as never having been included in this Section of the Scheme in accordance with paragraph (3) of regulation 9 in respect of one or more later periods of HSC employment entered into after having given the notice referred to in head (ii);

(o) that person is a person who—

(i) enters HSC employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9, and

(iii) as a result of that notice on 1st April 2008 is treated as never having been in superannuable employment with any employing authority in accordance with paragraph (3) of regulation 9;

(p) that person is a person who—

(i) enters HSC employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9,

(iii) as a result of that notice has been treated as having left superannuable employment with all employing authorities for a period of 12 months or more, and

(iv) is not entitled to a preserved pension in accordance with regulation 49;

(q) that person is a person who—

(i) enters superannuable employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that the person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation 9,

(iii) is not entitled to a preserved pension in accordance with regulation 49, and

(iv) has, in respect of that superannuable employment, either received a repayment of contributions under regulation 50 or exercised the right to a transfer payment under Part VI;

(r) that person is a person, other than a registered dentist, who is employed as a dental pilot scheme employee otherwise than by a HSC Trust, and who either—

(i) was, immediately prior to the commencement of such employment, a HPSS dental employee who was not eligible to join the scheme; or

(ii) has not previously been in employment as a HPSS dental employee;

(s) that person is a provider of personal dental services under a pilot scheme to whom these Regulations did not apply immediately prior to the commencement of the pilot scheme, other than a registered dentist.

(2) In paragraph (1)—

(a) “2008 Section” includes a corresponding health service scheme;

(b) “superannuable employment” includes employment that qualified the member for a benefit under a health service scheme;

(c) a reference to regulations 13, 13A, 49, 50, 52, 53 and 54 includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the provisions of the superannuation scheme as set out in these Regulations.

(d) for the purposes of sub-paragraphs (k) and (n)(iii)(aa), any break in superannuable employment where the member was in superannuable service in an existing scheme (within the meaning of Schedule 5 to the 2014 Act) is to be disregarded.

(3) The Department may permit a person who would otherwise not be permitted to join this Section of the scheme in accordance with sub-paragraph (1)(f), (g), (h) or (k) to do so if—

(a) that person’s HSC employment was transferred to another employer by virtue of—

(i) a transfer of undertakings or arrangements equivalent to a transfer of undertakings, and

(ii) at no time since that transfer (or the last of them if more than one) has the person had a break in superannuable employment for any one period of five years or more; or

(b) that person’s employment is transferred to an employing authority by virtue of —

(i) a transfer of undertakings, or

(ii) arrangements equivalent to a transfer of undertakings,

(whether or not the transferring employer is in the public sector provided that person’s employment was originally transferred out of the public sector); and

(c) the employment from which the member is transferred—

(i) qualified the member for benefits under an occupational pension scheme, and

(ii) the rules of that scheme (in the opinion of the Department) entitle the member

to receive benefits on retirement upon, or prior to, attaining the age of 60

years.

(4) The reference in paragraph (3) to arrangements equivalent to a transfer of undertakings is to arrangements—

(a) which the Department considers to be equivalent to the transfer of an undertaking, and

(b) under which the parties to the arrangements have agreed that the rights of the persons whose employments are being transferred should as far as practicable be treated in the same way as they would have been under a transfer of an undertaking.

(5) For the purposes of paragraph (3)(c)(ii) a person is not to be treated as being entitled under the rules of a pension scheme to receive benefits upon, or prior to, attaining the age of 60 years, where such entitlement arises by virtue of any scheme rule making special provision—

(a) as to early retirement on the grounds of ill health, redundancy or otherwise, or

(b) for benefits to be reduced for early payment.

(6) Before permitting a person referred to in paragraph (3) to join this Section of the scheme the Department shall take advice from the Scheme Actuary.

*Restrictions on further participation in* *this Section of* *the scheme*

**8.**–(1) Persons who cease to satisfy the conditions for eligibility for membership specified in regulation (6)(1) may not contribute to or accrue further superannuable service under this Section of the scheme.

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

(a) regulation 13(11);

(b) regulation13A(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 this Section of 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 this Section of 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.

(4) A person who on 1st April 2012 has not attained the age of 41 years and 7 months may not contribute or accrue further superannuable service under this Section of the Scheme in respect of service in HSC employment on, or after, 1st April 2015.

(5) A person who on 1st April 2012 has attained the age of 50 may not contribute or accrue further superannuable service under this Section of the scheme unless that person either—

(a) is in superannuable employment on 31st March 2015, or

(b) returns to superannuable employment on or after 1st April 2015 in circumstances where the provisions of regulation 7 do not apply.

(6) A person who on 1st April 2012 has attained the age of 45 years but not the age of 46 years and 7 months may not contribute or accrue further superannuable service under this Section of the Scheme unless either paragraph (7) or (8) applies to that person and that person—

(a) is in superannuable employment on 31st March 2015, or

(b) returns to superannuable employment on or after 1st April 2015 in circumstances where the provisions of regulation 7 do not apply.

(7) This paragraph applies to a person who was, on 1st April 2012, in superannuable employment as a special class officer either—

(a) under regulation 75, or

(b) under regulation 76 and would, if that employment were to continue until that person attained the age of 60 years, be able to count in excess of 20 years’ superannuable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(8) This paragraph applies to a person who was, on 31st March 2015, in superannuable employment as a special class officer either—

(a) under regulation 75, or

(b) under regulation 76 and would, if that employment were to continue until that person attained the age of 60 years, be able to count in excess of 20 years’ superannuable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(9) A person who, on 1st April 2012, has attained the age of 46 years and 7 months but has not attained the age of 50, may not contribute to or accrue further superannuable service under this Section of the scheme unless one of paragraphs (7), (10), (11) or (12) applies to that person and that person—

(a) is in superannuable employment on 31st March 2015, or

(b) returns to superannuable employment on or after 1st April 2015 in circumstances where the provisions of regulation 7 do not apply.

(10) This paragraph applies to a person whose eligibility cessation date calculated in accordance with paragraph (15) has not been reached.

(11) This paragraph applies to a person if on the day before that person’s eligibility cessation date calculated in accordance with paragraph (10), that person is in superannuable employment as a special class officer either—

(a) under regulation 75, or

(b) under regulation 76 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more superannuable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(12) A person who, on 1st April 2012 has attained the age of 41 years and 7 months but has not attained the age of 45, may not contribute or accrue further superannuable service under this Section of the Scheme unless either paragraph (13) or (14) applies to that person and that person—

(a) is in superannuable employment on 31st March 2015, or

(b) returns to superannuable employment on or after 1st April 2015 in circumstances where the provisions of regulation 7 do not apply.

(13) This paragraph applies to a person if that person was, on 1st April 2012, in superannuable employment as a special class officer—

(a) either under—

(i) regulation 75, or

(ii) regulation 76 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more superannuable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation, and

(b) that person’s eligibility cessation date calculated in accordance with paragraph (16) has not been reached.

(14) This paragraph applies to a person if that person was, on 31st March 2015, in superannuable employment as a special class officer—

(a) either under—

(i) regulation 75, or

(ii) under regulation 76 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more superannuable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation, and

(b) that person’s eligibility cessation date calculated in accordance with paragraph (16) has not been reached.

(15) For the purposes of paragraphs (10) and (11), the “eligibility cessation date” in relation to a person is to be determined according to the formula—



Where—

A is 1st April 2022

M is the number of months (rounded up to the nearest whole month) by which the person’s age on 1st April 2012 is less than 50.

(16) For the purposes of paragraphs (13) and (14), the “eligibility cessation date” in relation to a person is to be determined according to the formula—



Where—

A is 1st April 2022

N is the number of months (rounded up to the nearest whole month) by which the person’s age on 1st April 2012 is less than 45.

(17) Paragraph (18) applies to a person who in the opinion of the Department—

(a) was previously an active member of a health service scheme corresponding to this Section of the scheme;

(b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2014 Act that provide for exceptions to subsection (1) of that section, and

(c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to HSC employment for the purposes of that scheme on the day the member commenced HSC employment within the meaning of these Regulations.

(18) The Department may permit a person referred to in paragraph (17) to join this Section of the scheme and, for the purposes of paragraphs (5) to (16), the member’s previous superannuable employment under the corresponding health service scheme referred to in paragraph (17) will be treated as if it were previous superannuable employment under this Section of the scheme.

*Opting out of* *this Section of* *the scheme*

**9.**–(1) A person who does not wish to, or who no longer wishes to, participate in this Section of the scheme may opt out of this Section of the scheme at any time by giving notice in writing to his employing authority and such person will be treated as having left superannuable employment on the date the notice takes effect.

(1A) deleted **2013/73**

(1B) deleted **2013/73**

(1C) deleted **2013/73**

(2) A notice referred to in paragraph (1) shall take effect—

(a) from the first day of the pay period immediately following its receipt by the employing authority; or

(b) where a later date is specified in the notice, from the first day of the pay period following the pay period in which the specified date falls.

(3) A person who opts out of this Section of the scheme under paragraph (1) within one month of the date of commencing HSC employment shall be treated as never having been included in this Section of the scheme in respect of that opt out and, if applicable, any contributions made by, or on behalf of, that person for the period before the opt out took effect must be refunded.

(4) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the persons—

(a) automatic enrolment date; or

(b) automatic re-enrolment date: this does not apply where the notice was given within the 12 months immediately preceding that date.

(5) Subject to paragraph (6), a member who has opted out of this Section of the scheme in accordance with paragraph (1) may, if eligible to do so, join or rejoin this Section of the scheme by giving notice in writing to the employing authority and on so doing will be included in this Section of the scheme on the first pay period after the notice is received or such later date (which must be the first day of a day period) as is specified in the notice.

(5A) deleted **2013/73**

(6) A person who has opted out may not become a member of this Section of the scheme during any period of absence from work for any reason

(7) A person shall not be treated as having retired from superannuable employment by reason only of having opted out of this Section of the scheme.

(8) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act and regulations 9 or 15 of the 2010 Regulations applies (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.

*Opting into* *this Section of* *the Scheme: Mis-sold Pensions*

**9A.-**(1) This regulation shall apply to a person who, during any period-

(a) was eligible to be an active member of this Section of the scheme;

(b) opted out of this Section of the scheme under regulation 9(1) and instead made contributions to a personal pension scheme; and

(c) has suffered loss as the result of a contravention which is actionable under section 62 of the Financial Services Act 1986.

(2) Where, at any time, a person to whom this regulation applies elects to join or rejoin this Section of the scheme under regulation 9(5), there shall, if the Department so determines, be counted as superannuable service in respect of that person a period equal to the aggregate of-

(a) his additional period of superannuable service as approved by the Department for the purposes of

regulation 62A(2)(i); and

(b) his “transferred-out service”, if any, within the meaning of regulation 62(5),

provided there has been paid to the Department in respect of that person a transfer a transfer payment calculated in accordance with regulation 62A.

(3) Where, at any time, a person to whom this regulation applies elects to join or rejoin this Section of the scheme under regulation 9(5) but dies in superannuable employment or becomes entitled to benefits under Part III of these regulations before the transfer payment referred to in paragraph (2) has been paid to the Department in respect of him, paragraph (2) shall continue to apply in case of that person.

(4) In this regulation-

“active member” means a person who is in superannuable employment under this Section of the scheme; and

“personal pension scheme” has the meaning given by section 1 of the 1993 Act and includes-

(i) a retirement annuity contract approved under Chapter III of Part XIV of the income and

Corporation Taxes Act 1988;

(ii) a personal pension scheme approved under Chapter IV of Part XIV of the Income and

Corporation Taxes Act 1988;

(iii) a retirement benefits scheme approved under section 591(2)(g) of the Income and

Corporation Taxes Act 1988;

(iv) a scheme referred to in (i), (ii) or (iii) that obtained relevant approval under the Income and

Corporation Taxes Act 1988 before the 6th April 2006 and on that date became a registered

scheme for the purpose of the 2004 Act;

(v) a scheme established on, or after, 6th April 2006 as a registered scheme for the purpose of

the 2004 Act and which the Department agrees to recognise as a transferring scheme for the

purposes of regulations 53 to 64.

*Contributions by members*

**10.**–(1) Each member in superannuable employment must contribute to this Section of the scheme in accordance with the following paragraphs.

(1A) A member’s contribution rate for the scheme year 2015-2016 to 2018-2019 inclusive is the percentage specified in Column 2 of the following table in respect of the corresponding superannuable pay band specified in Column 1 of that table into which the member’s superannuable pay falls.

Table: Scheme Years 2015-2016 to 2018-2019

|  |  |
| --- | --- |
| Column 1  Superannuable Pay band | Column 2  Contribution percentage rate |
| Up to £15,431 | 5% |
| £15,432 to £21,477 | 5.6% |
| £21,388 to £26,823 | 7.1% |
| £26,824 to £47,845 | 9.3% |
| £49,473 to £70,630 | 12.5% |
| £70,631 to £111,376 | 13.5% |
| £110,377 to any higher amount | 14.5% |

(2)  The superannuable pay bands and contribution percentage rates shall be determined in accordance with the tables set out in paragraph (1A) in respect of each scheme year.

(2A) revoked

(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.

(c) Revoked SR 2012 No.78

(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 this Section of 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 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



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 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



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



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—



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—



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—



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—



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—



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



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—



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 this Section of 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 this Section of 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 this Section of 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 this Section of 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..

(3) If the member is a special class officer, contributions must be paid until the member reaches age 65, or completes 45 years’ superannuable service and reaches age 60.

(4) If the member is not a special class officer, contributions must be paid until the member reaches age 75, or completes 45 years’ superannuable service.

(5) The employing authority shall deduct each member’s contributions from the member’s earnings and pay them to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(6) Where an employing has failed to deduct contributions in accordance with paragraph (5), the Department may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits payable to, or in respect of, the member where the Department has notified the member of an intention to do so; this is without prejudice to any other method of recovery.

*Contributions by employing authorities*

**11.**–(1) Each employing authority must contribute to the scheme, in respect of the superannuable pay of each member in superannuable employment with the authority, at the rate specified in paragraph (2) (“the employer’s standard rate”).

(1A) The employer’s standard rate shall include the cost of providing any increases in pensions which are payable by virtue of Part 1 of the Pensions (Increase) Act (Northern Ireland) 1971.

(2) The employer’s standard rate is 16.3 per cent.

(3) In addition to the contributions payable under paragraph (1), where, on leaving superannuable employment, a pension becomes payable to a member under regulation 14 (Early retirement pension (redundancy etc)) or regulation 14A (Early retirement pension (termination of employment by employing authority)) the employing authority must, subject to paragraph (8), make additional contributions to the Department in respect of -

(a) the cost of providing the pension under regulation 14 (including any amount of pension that is exchanged for a lump sum under regulation 17A) for the period between the member’s leaving HPSS employment and reaching age 60 or, in the case of a member who is a special class officer in respect of whom regulation 75 (Nurses, physiotherapists, midwives and health visitors) or regulation 76 (Mental health officers) applies, the age of 55;

(b) the cost of providing the pension (including any amount of pension that is exchanged for a lump sum under regulation 17A) under-

(i) ……

(ii) regulation 14A (Early retirement pension (termination of employment by employing

authority)) for the period between the member’s leaving superannuable employment and

reaching age 60 or, in the case of a member to whom regulation 75 (Nurses,

physiotherapists, midwives and health visitors) or regulation 76 (Mental Health Officers)

applies, age 55;

(c) the cost of providing, under regulation 79 (Members entitled to fees for domiciliary consultations), any benefit that supplements the pension referred to in sub-paragraph (a) or (b) for the periods referred to in those sub-paragraphs;

(d) the cost of providing compensation under regulations 4(1) (Payment of compensation), 6(1) (Compensation payable to widow, widower, surviving civil partner or dependants) or 7 (Compensation where death gratuity becomes payable) of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983

(e) the cost of providing any increase under Part I of the Pensions (Increase) Act (Northern Ireland) 1971in the rate of the benefits referred to in sub-paragraphs (a) to (d), but in the case of the benefits referred to in sub-paragraphs (a) to (c), only for the periods referred to in those sub-paragraphs; and

(f) the additional cost attributable to early payment of the lump sum on retirement under regulation 17, such cost being determined by the Department on the advice of the Scheme Actuary;

and where, on such a pension becoming payable, a pension also becomes payable to the member in respect of employment with one or more other employing authorities, the employing authority in relation to whom the redundancy arose or by whom the consent to early retirement pension was given shall also be responsible for making additional contributions in accordance with this paragraph in respect of that other pension.

(4) Any contributions that are payable under paragraph (1) shall be paid to the Department on the same day as the member’s contribution under regulation 10(5).

(5) Any additional payments that are due to the Department under sub-paragraphs (3)(a), (c), (d), (e) and (f) shall be made -

(a) quarterly within one month of the invoice being received from the Department; or

(b) if the Department agrees, by -

(i) a single payment of an amount determined by the Department, on the advice of the Scheme Actuary, made within one month of the date on which the pension under regulation 14 became payable, or

(ii) not more than 5 equal annual instalments each of an amount determined by the Department, on the advice of the Scheme Actuary, the first of which to be made within one month of the date on which the pension under regulation 14 became payable and the others to be paid by 31st October in each of the following 4 financial years.

(6) An employing authority making quarterly additional payments in accordance with sub-paragraph (5)(a) may, if the Department agrees, discharge its liability under paragraph (3) by making -

(a) a single payment of an amount determined by the Department, on the advice of the Scheme Actuary, made within one month of the date on which the Department’s consent is given to the employing authority, or

(b) not more than 5 equal annual instalments each of an amount determined by the Department, on the advice of the Scheme Actuary, the first of which to be made within one month of the date on which notice of the Department’s consent is given to the employing authority and the others to be paid by 31st October in each of the following 4 financial years.

(7) Any additional payments that are due to the Department under paragraph (3)(b), (c), (e) and (f) shall be payable in whichever of the following ways the employing authority chooses -

(a) by a single payment of an amount determined by the Department, on the advice of the Scheme Actuary, made within one month of the date on which the pension under regulation 14A became payable, or

(b) by not more than 5 equal annual instalments each of an amount determined by the Department, on the advice of the Scheme Actuary, the first of which to be made within one month of the date on which the pension under regulation 14A became payable and the others to be paid by 31st October in each of the following 4 financial years.

This is subject to paragraph (7A).

(7A) Where the member leaves superannuable employment on or after 1st April 2013, any additional contributions that are due to the Department under paragraph (3)(b), (c), (e) and (f) may only be paid by a single payment of an amount determined by the Department on the advice of the Scheme Actuary: that payment must be made within one month of the date on which the pension under regulation 14A became payable.

(8) Where an employing authority is-

(a) a GMS practice, or

(b) an APMS contractor, or

(c) an OOH provider,

fails to pay or remit or has previously failed to pay or remit contributions in accordance with the provisions of this regulation, the Department may thereafter require that authority to have in force a guarantee, indemnity or bond in a form and amount, and provided by a person approved by the Department, which provides for the payment to the Department of all future liabilities of the employing authority under these Regulations or such liabilities as are specified by the Department under these Regulations or under the Health and Personal Social Services (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999 should the authority fail to meet them.

(9) In any particular case the Department may direct that, for the purposes of this regulation, “employing authority” includes one or more of-

(a) a successor, transmittee or assignee of an employing authority’s business or functions; and

(b) the last employing authority of a person to whom these Regulations apply.

*Further contributions by employing authorities in respect of excessive pay increases*

**11A.**—(1) This regulation applies where a member becomes entitled to a benefit in accordance with regulation 12, 13A, 14A, 14C, 16 or 49 and the Department determines that the member’s final year’s superannuable pay determined under regulation 3(6) exceeds the allowable amount.

(2) For the purposes of this regulation—

(a) Year 1 is the year in which the member ceases to be in superannuable employment or dies, whichever occurs first;

(b) Year 2 is the year immediately preceding Year 1;

(c) Year 3 is the year immediately preceding Year 2.

(3) The allowable amount in respect of Year 1 is the lower of—

(a) the member’s superannuable pay for Year 1, and

(b) the allowable amount for Year 2 increased by the lower of—

(i) the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 1 is higher than it was for the previous February, and

(ii) the percentage increase in the member’s superannuable pay for Year 1 compared with Year 2.

(4) The allowable amount in respect of Year 2 is the lower of—

(a) the member’s superannuable pay for Year 2, and

(b) the allowable amount for Year 3 increased by the lower of—

(i) the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 2 is higher than it was for the previous February, and

(ii) the percentage increase in the member’s superannuable pay for Year 2 compared with Year 3.

(5) The allowable amount in respect of Year 3 is the lower of—

(a) the member’s superannuable pay for Year 3, and

(b) the member’s superannuable pay for the year immediately preceding Year 3 increased by the aggregate of 4.5% and the percentage (if any) by which the consumer prices index for the February before the start of Year 3 is higher than it was for the previous February.

(6) An excess employer contribution is determined as follows—

Step 1: find Amount A, which is the difference between the member’s final year’s superannuable pay and the allowable amount for that year

Step 2: calculate amount B, which is the amount of the pension payable to the member as if the member’s final year’s superannuable pay consisted only of Amount A increased by an amount equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of that amount

Step 3: calculate amount C, which is the amount of the lump sum payable to the member as if the member’s final year’s superannuable pay consisted only of amount a increased by an amount equal to any increases that would be due under the Pensions (Increase) Act (Northern Ireland) 1971 on a lump sum of that amount

Step 4: multiply Amount B by the applicable factor to find Amount D

Step 5: in the case of a member who is entitled to a benefit under regulation 49, multiply Amount C by the applicable factor to find Amount E

Step 6: add together—

(a) Amount D and Amount E, in the case of a member entitled to a benefit under regulation 49;

(b) Amount C and amount D, in all other cases,

to find the amount of the excess employer contribution.

(7) Where the member’s final year’s superannuable pay exceeds the allowable amount by reason only of it including an amount in respect of a national award recommended by the Advisory Committee on Clinical Excellence Awards, the body responsible for the funding of that award must pay the excess employer contribution.

(8) Paragraphs (9) and (10) apply where Amount A found under Step 1 of paragraph (6) includes both—

(a) an increased pay award from the member’s employing authority, and

(b) a national award recommended by the Advisory Committee on Clinical Excellence Awards.

(9) Where—

(a) the inclusion of both of the awards referred to in paragraph (8) in the member’s superannuable pay in Year 3, Year 2 or, as the case may be, Year 1 means that pay is the member’s final year’s superannuable pay in accordance with regulation 3(6), but

(b) the exclusion of the award referred to in paragraph (8)(b) from the member’s superannuable pay in the year identified in sub-paragraph (a) would result in a different one of those years being so identified,

the Department, after consulting the Scheme Actuary, is to determine the proportion of the excess employer contribution determined in accordance with paragraph (6) to be paid by the member’s employing authority and the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards: the determination of the excess employer contribution is to take account of the award referred to in paragraph (8)(b).

(10) Where the inclusion of both of the awards referred to in paragraph (8) in the member’s superannuable pay in Year 3, Year 2 or, as the case may be, Year 1 means that pay is the member’s final year’s superannuable pay in accordance with regulation 3(6), and the exclusion of the award referred to in paragraph (8)(b) would not result in a different one of those years being so identified, the amount of the excess employer contribution determined in accordance with paragraph (6) (and taking account of the amount referred to in paragraph (8)(b)) payable by the member’s employing authority and the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards is to be determined in accordance with paragraph (11).

(11) The amount of the excess employer contribution payable by the member’s employing authority and the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards is to be determined as follows—

Step 1: find Amount A in accordance with Step 1 of paragraph (6)

Step 2: find Amount F, which is the difference between—

(a) the member’s superannuable pay for the member’s last year of superannuable employment as if that, and the member’s superannuable pay in previous years, did not include the award referred to in paragraph (8)(b), and

(b) the allowable amount for that year as if the member’s superannuable pay for previous years had not included the award referred to in paragraph (8)(b)

Step 3: divide Amount F by Amount A and express the result as a percentage: that is the percentage of the excess employer contribution payable by the member’s employing authority

Step 4: subtract the percentage found under Step 3 from 100% to find the percentage of the excess employer contribution payable by the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards.

(12) The amount of an excess employer contribution must be paid to the Department within 1 month of the Department notifying the payer of its liability for that amount: but the Department may exceptionally specify that it is to be paid within some other period.

(13) Where a payer fails to pay all, or any part, of the excess employer contribution it is liable to pay, the Department is to give that payer a written notice (“a late payment notice”) specifying all of the following—

(a) the amount of the excess employer contribution that is unpaid;

(b) the amount of any interest due on the amount referred to in paragraph (a);

(c) the amount of the administration charge arising from the late payment of the excess employer contribution;

(d) that the amounts in (a) to (c) are to be received by the Department within 1 month of the date of the notice.

(14) Where a payer fails to comply with a late payment notice, the Department may issue a further late payment notice amended to take account of that failure.

(15) Where a member has superannuable employment with more than one employing authority during the years referred to in paragraph (2), this regulation applies to each such employment separately.

(16) In the case of a member in part-time employment, this regulation is subject to regulation 78.

(17) For the purpose of this regulation an increase in superannuable pay during Year 3, Year 2 or, as the case may be, Year 1 is to be ignored where the Department is satisfied it arises as a result of—

(a) the member taking up new employment with a new employer: provided the Department is satisfied that the employer in question is a new employer;

(b) the ending of a salary sacrifice arrangement made before the 1 April 2015: for these purposes a salary sacrifice arrangement is one under which the member gives up the right to receive an amount of superannuable pay in return for the provision of a benefit in kind including, but not limited to, a benefit consisting of a motor car or other vehicle, meals care or vouchers.

(18) If the Department is not satisfied that the employer in question is a new employer, that employer is to be treated as an employing authority liable for an excess employer contribution in accordance with this regulation.

(19) An increase in a member’s superannuable pay due to the acceptance of a transfer payment in the circumstances described in regulation 3(5) shall be ignored for the purposes of this regulation.

(20) In any particular case the Department may direct that, for the purposes of this regulation, “employing authority” includes one or more of a successor, transmittee or assignee of an employing authority’s business or functions.

(21) For the purposes of this regulation—

(a) a “payer” is the person who is liable to pay all or part of an excess employer contribution to the Department in accordance with this regulation;

(b) the superannuable pay to be taken into account by the Department for a year or part of a year referred to in paragraph (2) will be derived from the superannuable pay for that period recorded in scheme year pension records provided to the Department in accordance with paragraph (5) of regulation 97;

(c) where the member is in superannuable employment for less than 12 months superannuable pay for that year means—

(superannuable pay/number of days superannuable employment) × 365

(d) no account is to be taken of increases in superannuable pay prior to 1st April 2015 or more than 1095 days prior to the member’s last day of superannuable employment;

(e) the applicable factor is to be determined from time to time by the Department having considered the advice of the Scheme Actuary and having obtained the consent of the Department of Finance and Personnel;

(f) if the percentage increase in the consumer prices index referred to in paragraphs (3), (4) and (5) is less than zero, it will be regarded as a percentage increase of 0% for the purposes of this regulation;

(g) a benefit referred to in paragraph (1) means—

(i) in the case of regulation 13A, a benefit including the effects of any increase in superannuable service referred to in paragraph (4) of that regulation;

(ii) in the case of regulation 16, a benefit including the effects of any reduction referred to in paragraph (2) of that regulation;

(h) for the purposes of making any payment it is liable to pay under this regulation, the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards shall have the same liabilities and duties as an employing authority under these Regulations in respect of that payment.

**PART III**

**BENEFITS**

*Normal retirement pension*

**12.**–(1) A member who retires from superannuable employment on or after attaining age 60 shall be entitled to a pension under this regulation.

(2) The pension under this regulation shall be at a yearly rate of 1/80th of final year’s superannuable pay for each complete year of superannuable service, plus the relevant daily proportion of that rate for each additional day of such service.

(3) A member who stays in superannuable employment until age 75 shall be entitled to receive a pension under this regulation at that age even if he does not retire from such employment.

(4) Subject to paragraph (5), where a member leaves superannuable employment on or after 1st April 2008 becomes entitled to a pension under this regulation, the Department may discharge its liability for that pension by payment of a lump sum of an amount consistent-

(a) with the contracting-out preservation requirements of the 1993 Act;

(b) the lump sum rule.

(5) A lump sum payment under paragraph (4) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to life expectancy of the member.

(6) For the purposes of paragraph (5), the Department may require whatever medical evidence it considers necessary.

(7) The amount of the lump sum payable under paragraph (4)-

(a) will be equal to 5 times the yearly rate of the member’s pension (calculated in accordance with

this regulation); and

(b) shall be payable in addition to the lump sum payable under regulation 17 (which shall not be

subject to any reduction under regulation 17(3)) and the lump sum in place of part of a pension

payable under regulation 17A.

(8) For the purposes of calculating the amount of lump sum payable under paragraph (7), the

member will be treated as if he had made an election under regulation 17A to receive the maximum amount of a further lump sum payable under that regulation.

*Early retirement pension (ill health)*

**13.**–(A1) This regulation applies to a member who—

(a) retires from superannuable employment on or after 1st April 2008–

(i) who submitted Form AW33 (or such other form as the Department accepted) together with supporting medical evidence if not included in the form, and

(ii) that form was received by the Department before the 1st April 2008; or

(b) returns to employment which attracts a pension in accordance with paragraph (11).

(1) A member to whom this regulation applies who retires from superannuable employment because of physical or mental infirmity that makes him permanently incapable of efficiently discharging the duties of that employment shall be entitled to a pension under this regulation if he has at least 2 years’ qualifying service or qualifies for a pension under regulation 12 (Normal retirement pension).

(2) Subject to paragraph (3), the pension under this regulation will be calculated as described in regulation 12 (Normal retirement pension).

(3) If the member retires from superannuable employment before reaching age 65 and satisfies the requirements of any of paragraphs (4) to (6), the service upon which the pension is based will, subject to regulation 67(4) (cases in which additional service is not to count as superannuable service), be increased as described in whichever of those paragraphs is more favourable to the member.

(4) If the member has at least 5 years’ qualifying service but not more than 10 years’ service, the pension will be based on the shorter of –

(a) twice the member’s service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until age 65.

(5) If the member has more than 10 but not more than 20 years’ superannuable service, the pension will be based on the shorter of –

(a) the superannuable service the member could have completed if he had stayed in superannuable employment until age 65; and

(b) 20 years superannuable service.

(6) If the member has more than 10 years’ superannuable service and has not reached age 60, the pension will be based on the shortest of –

(a) the member’s actual superannuable service increased by a period of 6 years and 243 days;

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until age 60; and

(c) 40 years’ superannuable service.

(7) Subject to paragraph (8), where a member becomes entitled to a pension under paragraph (1), the Department may discharge its liability for that pension by the payment of a lump sum of an amount consistent-

(a) with the contracting-out and preservation requirements of the 1993 Act; and

(b) the lump sum rule.

(8) A lump sum payment under paragraph (7) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(9) For the purpose of paragraph (8), the Department may require whatever medical evidence that it considers necessary.

(10) The amount of the lump sum payable under paragraph (7)-

(a) will be equal to five times the yearly rate of the member’s incapacity pension (calculated in

accordance with this regulation); and

(b) shall be payable in addition to the lump sum on retirement payable under regulation 17 (Lump

sum on retirement) (which shall not be subject to any reduction under regulation 17(3)) and the

lump sum in place of part of pension payable under regulation 17A.

(11) The employment of a member to whom a pension is payable under this regulation may be superannuable under this Section of the scheme providing that the member is under the age of 50 at the date on which he returns to superannuable employment.

(12) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation 17A to receive the maximum amount of further lump sum payable under that regulation.

*Ill Health pension on early retirement*

**13A.**-(1) This regulation applies to a member who—

(a) retires from superannuable employment on or after 1st April 2008;

(b) did not submit a Form AW33 (or such other form as the Department accepted) together with supporting medical evidence if not included in the form pursuant to regulation 13 which was received by the Department before 1st April 2008, and

(c) is not in receipt of a pension under regulation 13.

(2) A member to whom this regulation applies who retires from superannuable employment before normal benefit age shall be entitled to pension under this regulation if—

(a) the member has at least 2 years qualifying service or qualifies for a pension under regulation 12; and

(b) the member’s employment is terminated because of physical or mental infirmity as a result of which he is—

(i) permanently incapable of efficiently discharging the duties of that employment (the “tier 1 condition”); or

(ii) permanently incapable of regular employment of like duration (the “tier 2 condition”) in addition to meeting with the tier 1 condition.

(3) Subject to paragraph (4), the pension to which a member is entitled—

(a) upon satisfaction of the tier 1 condition (“the tier 1 pension”), or

(b) upon satisfaction of the tier 2 condition in addition to meeting the tier 1 condition (“the tier 2 pension”),

will be calculated as described in regulation 12.

(4) Subject to paragraphs (5) and (6), if the member meets the tier 2 condition in addition to meeting the tier 1 condition, the superannuable service on which the pension is based will be increased by two-thirds of the superannuable service the member could have completed had he stayed in superannuable employment until normal benefit age.

(5) If the member’s employment is terminated on or before 31st March 2016, the minimum amount by which his superannuable service will be increased under paragraph (4) will be the lesser of—

(a) 4 years superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable employment until normal benefit age.

(6) To the extent that any increase under paragraph (4) or (5) would cause a member’s superannuable service to exceed the limit provided for in regulation 4(3), (Meaning of superannuable service), the amount of any excess will be reduced accordingly.

(7) Subject to paragraph (8), where a member becomes entitled to a pension by virtue of meeting the tier 2 condition, the Department may discharge its liability for that pension by the payment of a lump sum of an amount consistent—

(a) with the contracting-out and preservation requirements of the 1993 Act; and

(b) the lump sum rule.

(8) A lump sum payment under paragraph (7) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(9) For the purpose of paragraph (8), the Department may require whatever medical evidence that it considers necessary.

(10) The amount of the lump sum payable under paragraph (7)—

(a) will be equal to 5 times the yearly rate of the member’s pension (calculated in accordance with this regulation); and

(b) shall be payable in addition to the lump sum on retirement payable under regulation 17 (which shall not be subject to any reduction under regulation 17(3)) and the lump sum in place of part of pension payable under regulation 17A.

(11) The employment of a member to whom a pension is payable under this regulation may be superannuable under this Section of the scheme if he is under age 50—

(a) on the date the member returns to HSC employment if he became entitled to receive a pension under a tier 1 condition on the day he retired from superannuable employment; or

(b) on the day after the protection period in regulation 13C(6)(b) ends if—

(i) the member became entitled to receive a pension under a tier 2 condition on the day the member retired from superannuable employment.

(ii) the Department did not discharge its liability for that pension by payment of a lump sum in accordance with paragraph (7); or

(c) on the day after the protection period in regulation 13C(6)(b) ends—

(i) the member became entitled to receive a pension under a tier 2 condition in place of a pension under a tier 1 condition on the date of the Department’s determination under regulation 13B, and

(ii) the Department did not discharge its liability for that pension by the payment of a lump sum in accordance with paragraph (7).

(12) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation 17A to receive the maximum amount of a further lump sum payable under that regulation.

(13) For the purposes of determining whether a member is permanently incapable of efficiently discharging the duties of the member’s employment under paragraph (2)(b)(i), the Department shall have regards to factors in paragraph (15) (no one of which shall be decisive) and disregard the member’s personal preferences for or against engaging in that employment.

(14) For the purposes of determining whether a member is permanently incapable of regular employment under paragraph (2)(b)(ii), the Department shall have regard to the factors in paragraph (16) (no one of which shall be decisive) and disregard the factors in paragraph (17).

(15) The factors to be taken into account for paragraph (13) are—

(a) whether the member has received appropriate medical treatment in respect of the incapacity;

(b) the member’s—

(i) mental capacity; and

(ii) physical capacity;

(c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of the member’s incapacity, irrespective of whether such rehabilitation is undergone; and

(d) any other matter the Department considers appropriate.

(16) The factors to be taken into account for paragraph (14) are—

(a) whether the member has received appropriate medical treatment in respect of the incapacity; and

(b) such reasonable employment as the member would be capable of engaging in if due regard is given to the member’s—

(i) mental capacity;

(ii) physical capacity;

(iii) previous training; and

(iv) previous practical, professional and vocational experience,

irrespective of whether or not such employment is actually available to the member;

(c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of a member’s incapacity (irrespective of whether such rehabilitation is undergone) having regard to the member’s—

(i) mental capacity, and

(ii) physical capacity;

(d) such type and period of training which it would be reasonable for the member to undergo in respect of a member’s incapacity (irrespective of whether such training is undergone) having regard to the member’s—

(i) mental capacity,

(ii) physical capacity,

(iii) previous training, and

(iv) previous practical, professional and vocational experience, and

(e) any other matter which the Department considers appropriate.

(17) The factors to be disregarded for paragraph (14) are—

(a) the member’s personal preference for or against engaging in any particular employment; and

(b) the geographical location of the member.

(18) For the purpose of this regulation—

“appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the incapacity, but does not include any treatment that the Department considers—

(a) that it would be reasonable for the member to refuse,

(b) would provide no benefit to restoring the member’s capacity for—

(i) efficiently discharging the duties of the member’s employment under paragraph (2)(b)(i), or

(ii) regular employment of like duration under paragraph (2)(b)(ii),

before the member reaches normal benefit age; and

(c) that, through no fault on the part of the member, it is not possible for the member to receive before the member reaches normal benefit age;

“permanently” means the period until normal benefit age; and

“regular employment of like duration” means—

(a) in the case of a non-GP provider, such employment as the Department considers would involve a similar level of engagement to the member’s current superannuable service as a non-GP provider; and

(b) in all other cases, where prior to retiring from employment that is superannuable the member was employed—

(i) on a whole-time basis, regular employment on a whole-time basis;

(ii) on a part-time basis, regular employment on a part-time basis,

regard being had to the number of hours, half days and sessions the member worked in that employment.

*Re-assessment of Ill Health condition determined under regulation 13A*

**13B**.-(1) This regulation applies to a member in receipt of a tier 1 pension under regulation 13A.

(2) A member to whom this regulation applies may ask the Department to consider whether he subsequently meets the tier 2 condition if—

(a) by notice in writing at the time of award of the pension, the Department informed the member that the member’s case may be considered once within a period of three years commencing with the date of that award to determine whether the member satisfies the tier 2 condition at the date of such a consideration;

(b) the member provides further medical evidence to the Department relating to the satisfaction of the tier 2 condition at the date of the Department’s consideration and that further medical evidence is provided—

(i) in the case of a member who does not engage in further HSC employment during the three year period referred to in sub-paragraph (a), before the end of that period,

(ii) in the case of a member who does engage in further HSC employment during the three year period referred to in sub-paragraph (a), before the first anniversary of the day on which that employment commences or before the end of that period if sooner,

(c) that further medical evidence relates to the same physical or mental infirmity that qualified the member for the member’s tier 1 pension;

(d) the member has not become entitled to a tier 2 pension in respect of any later service under regulation 86A(6); and

(e) the member is not—

(i) a 2008 Section Optant within the meaning of regulation 136A or 260A of the 2008 Section of the Scheme, or

(ii) a Waiting Period Joiner within the meaning of regulation 136Y or 260X of the 2008 Section of the Scheme,

who has become entitled to a tier 2 ill-health pension under regulation 52 or 166 of that Section.

(3) If, after considering the further medical evidence provided by a member, the Department determines that the member satisfies the tier 2 condition—

(a) it shall pay from the date of that determination a tier 2 pension under regulation 13A(2) in place of the tier 1 pension being paid to that member; and

(b) that pension shall be calculated in accordance with paragraph (4) of regulation 13A and as if that paragraph included the words “from the date of the Department’s determination under regulation 13B” after “employment”.

(4) Only one consideration of a member’s case may be undertaken under this regulation.

*Further employment after a benefit is paid under regulation 13A*

**13C**.-(1) This regulation applies to a member who—

(a) isin receipt of a tier 2 pension under regulation 13A (“the original pension”); and

(b) enters into further employment.

(2) Such a member shall be paid a tier 1 pension (“a substitute pension”) in place of the original pension—

(a) from the next substitute pension payment date following the day on which his annual earnings from further employment (whether in HSC employment or otherwise) in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year; or

(b) in the case of a member who enters into further HSC employment, from the next substitute pension payment date following the first day on which the member is so employed which falls after the anniversary of the member’s entry into the further HSC employment (whether or not that day is part of a continuous period of further HSC employment beginning with his entry into that employment),

if sooner.

(3) A member who is in receipt of a substitute pension may ask the Department to consider reinstating the original pension if—

(a) the member is under normal benefit age;

(b) the member makes such a request in writing and provides supporting medical evidence to the Department before the end of the protection period; and

(c) the member’s further employment is terminated before the end of the protection period.

(4) If, after considering that evidence, the Department determines that the member again satisfies a tier 2 condition in respect of the member’s earlier employment, it shall recommence paying, from the day after the date that the further employment is terminated, the original pension in place of the substitute pension.

(5) A member to whom this regulation applies who is in receipt of a tier 2 pension must—

(a) notify the Department immediately and in writing if either of the following applies—

(i) the member’s annual earnings in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year;

(ii) the member is engaged in further HSC employment after the end of the protection period in paragraph (6)(b);

(b) provide any other information in connection with the member’s earnings or further employment requested by the Department or any other person that the Department may specify.

(6) In this regulation “the protection period” means—

(a) a period of one year beginning with the day on which the member’s annual earnings from further employment that is not HSC employment first exceed the lower earnings limit for national insurance contributions applicable to that year; or

(b) a period of one year beginning with the first day the member enters into further HSC employment.

*Early retirement pension (redundancy etc)*

**14.—**(1) This regulation shall apply to a member—

(a) who—

(i) was in superannuable employment on 1st December 2006, or

(ii) returns to such employment on, or after, that date and who is entitled to a preserved pension under regulation 49, or

(iia) returns to superannuable employment on or after that date that attracts a pension a pension in accordance with regulation 13(11) or 13A(11);

(iii) returns to superannuable employment after that date having had a break in such employment which does not exceed 12 months but includes 1st December 2006 and who is not entitled to a preserved pension under regulation 49; or

(iv) is certified by his employing authority as having a period of continuous employment (determined in accordance with terms and conditions relevant to that employment and as they applied on 1st October 2006);

(b) whose employment is terminated by his employing authority before 1st October 2011; and

(c) who satisfies the conditions specified in paragraph (2).

(2) Those conditions are that—

(a) he has at least 5 years’ qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;

(b) the Department certifies—

(i) that the member’s employment is terminated by reason of redundancy, or

(ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which he is employed; and

(c) his employing authority does not certify that he has unreasonably refused to seek suitable alternative employment or accept an offer of such employment.

(3) A member who satisfies the conditions in paragraph (2) shall be entitled to a pension calculated as described in regulation 12 (Normal retirement pension).

(4) This regulation does not apply to—

(a) practice staff;

(b) practitioners; or

(c) non-GP providers.

*Early retirement pension (termination of employment by employing authority)*

**14A.—**(1) This regulation applies to a member—

(a) whose superannuable employment is terminated by his employing authority; and

(b) who satisfies the conditions specified in paragraph (2).

(2) Those conditions are that—

(a) the member has 2 years’ qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;

(b) the member’s employing authority certifies—

(i) that the member has at least 2 years’ continuous employment determined in accordance with any terms and conditions applying to that employment, and

(ii) if the member’s employment is terminated by reason of redundancy, the member is entitled to claim a pension under this regulation as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to the member in accordance with those terms and conditions;

(c) the member’s employing authority does not certify that the member has unreasonably refused to seek suitable alternative employment or accept an offer of such employment;

(d) the Department certifies—

(i) that the member’s employment is terminated by reason of redundancy, or

(ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which the member is employed; and

(e) the member makes a claim for the pension referred to in this regulation.

(3) A claim referred to in paragraph (2)(e) shall —

(a) be in writing and addressed to the Department;

(b) be made within 6 months of the employment terminating; and

(c) contain such information as the Department may from time to time require.

(4) A member who satisfies the conditions in paragraph (2) shall be entitled to a pension calculated as described in regulation 12 (Normal retirement pension): this is subject to paragraph (4A).

(4A) A member who satisfies the conditions in paragraph (2) is not entitled to a pension under this regulation if the Department, after consultation with the scheme actuary, decides that the amount of the pension would be less than the amount of the guaranteed minimum pension to which the member is entitled.

(5) Where a person who claims a pension under this regulation—

(a) has received—

(i) a redundancy payment under the Employment Rights (Northern Ireland) Order 1996**,**

(ii) a corresponding payment under the arrangements of the NHS Staff Council, or

(iii) a payment made by virtue of any arrangement made pursuant to paragraph 17 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991(Health and Social Services Trusts – general powers),

in respect of the cessation of the employment; and

(b) the terms and conditions relevant to the employment require that payment or payments to be reduced to take account of the additional contributions the employing authority must make to the Department in accordance with regulation 11(3) (Contributions by employing authorities); but

(c) that payment or payments have not been so reduced,

the pension shall be reduced by an amount equal to the amount of that payment or payments and may be reduced to zero.

(6) This regulation does not apply to—

(a) practice staff;

(b) practitioners;

(c) non-GP providers;

(d) a member who is providing piloted services;

(e) a member to whom regulation 83A(1)(a) or (b) applies; or

(f) a member who is a dental pilot scheme employee and who is employed by a provider of piloted services other than a HSC Trust..

*Early retirement pension (redundancy etc notifications)*

**14B.—**(1) This regulation applies to a member—

(a) who satisfies the conditions specified in regulation 14 (Early retirement pension (redundancy etc)) and 14A (Early retirement pension (termination of employment by employing authority)); and

(b) whose superannuable employment is terminated by his employing authority on, or after, 1st December 2006 but before 1st October 2011.

(2) A member referred to in paragraph (1) may notify the Department as to which of those regulations he wishes to apply to him and such a notification shall be—

(a) in writing (but the Department may, in its discretion, accept notification in another form);

(b) given within 6 months of the employment terminating; and

(c) irrevocable.

(3) Where a member does not notify the Department within the period mentioned in paragraph (2)(b), regulation 14 (Early retirement pension (redundancy etc)) shall apply.

*Early retirement pension (special classes)*

**14C.—**(1) This regulation applies to a member—

(a) who has attained the age of 55;

(b) to whom regulation 75 (Nurses, physiotherapists, midwives and health visitors) or regulation 76 (Mental health officers) applies, and

(c) whose employment is terminated on, or after, 1st October 2011, and either—

(i) the Department certifies that that employment is terminated by reason of redundancy, or

(ii) with the agreement of the employing authority, the Department certifies that that employment is terminated in the interests of the efficiency of the service in which he is employed.

(2) A member referred to in paragraph (1) who would, if he made a claim for it, be entitled to a pension in accordance with regulation 14A—

(a) shall (for the purpose of this regulation) be treated as retiring from superannuable employment on the day on which his employment terminates; and

(b) shall be entitled to a pension under regulation 12 (Normal retirement pension) or 16 (Early retirement pension (with actuarial reduction)) if he makes a claim for it.

(3) A claim referred to in paragraph (2)(b) shall—

(a) be in writing and addressed to the Department;

(b) be made within 6 months of the employment terminating; and

(c) contain such information as the Department may from time to time require.

*Continuing entitlement to a pension under regulation 12 or 16*

**14D.—**(1) This regulation applies to a member—

(a) whose employment is certified by the Department to have terminated by reason of redundancy on, or after, 1st December 2006, and

(b) who has reached—

(i) normal minimum pension age, or, where relevant, protected pension age, or

(ii) age 60.

(2) A member referred to in paragraph (1) who would, if he made a claim for it, be entitled to a pension in accordance with regulation 14A—

(a) shall (for the purposes of this regulation) be treated as retiring from superannuable employment on the day on which his employment terminates; and

(b) shall be entitled to a pension under regulation 12 (Normal retirement pension) or regulation 16 (Early retirement pension (with actuarial reduction)) if—

(i) he satisfies the conditions set out in those regulations, and

(ii) he makes a claim for it.

(3) A claim referred to in paragraph (2)(b) shall—

(a) be in writing and addressed to the Department;

(b) be made within 6 months of the employment terminating; and

(c) contain such information as the Department may from time to time require.

*Early retirement pension (employer’s consent)*

**15. Revoked**

*Early retirement pension (with actuarial reduction)*

**16.—**(1) A member with at least 2 years qualifying service, who retires from superannuable employment at any time after reaching normal minimum pension age, or where relevant, protected pension age but before reaching age 60 shall be entitled to a pension under this regulation.

(2) The pension under this regulation will be calculated as described in regulation 12 (Normal retirement pension) and, except for any pension in respect of service calculated as a result of exercising the right to buy additional service under regulation 67 or the right to buy an unreduced retirement lump sum under regulation 68, it will then be reduced by such amount as the Department, after consulting the Scheme Actuary, may determine.

(3) Where a pension is payable under paragraph (1), any other amount payable under these Regulations which is paid early shall be reduced in like manner as described in paragraph (2).

(4) A member shall not be entitled to a pension under this regulation if the Department determines, having taken advice from the Scheme Actuary, that the pension reduced under paragraph (2) would be insufficient to meet its liability to provide a guaranteed minimum pension.

*Lump sum on retirement*

**17.—**(1) Subject to paragraph (8), each member shall, on becoming entitled to a pension under any of regulations 12 to 16 also become entitled to a retirement lump sum.

(2) Subject to paragraphs (2A), (3) and (7), the retirement lump sum will be equal to 3 times the that part of the yearly rate of the pension which is attributable to contributions paid under Part II.

(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).

(3) In the case of a man whose superannuable service started before 25th March 1972 and who is or has been married, the retirement lump sum will be reduced in accordance with whichever of paragraphs (4) to (6) is applicable (except to the extent that the reduction has been offset under Regulation 68 (Right to buy unreduced retirement lump sum)).

(4) If the man is married, the reduction will be equal to 2 times the yearly rate of the part of the man’s pension that is based on superannuable service before 25th March 1972.

(5) If the man’s wife died, or the man was divorced from his wife, on or after 24th March 1972, the reduction will be equal to 2 times the yearly rate of the part of the man’s pension that is based on superannuable service before 25th March 1972.

(6) If he man’s wife died, or the man was divorced from his wife, before 25th March 1972, the reduction will be equal to 2 times the yearly rate of the part of the man’s pension that is based on superannuable service up to and including the date of the death or divorce.

(7) In any case where regulation 16 applies (Early retirement pension (with actuarial reduction)):-

(a) the pension referred to in paragraph (2) of this regulation means the pension before any reduction is made under regulation 16(2); and

(b) the retirement lump sum as calculated under paragraph (2) of this regulation will, except for any lump sum in respect of service calculated as a result of exercising the right to buy additional service under regulation 67 or the right to buy an unreduced retirement lump sum under regulation 68, be reduced by such amount as the Department, after consulting the Government Actuary, shall determine.

(8) Where a member entitled to a lump sum under this regulation attained the age of 75 on or before the 5th April 2011—

(a) he shall cease to be entitled to a lump sum; and

(b) shall instead be entitled to have his pension increased by such amount as the Department may, after taking advice from the Government actuary, determine.

*General option to exchange part of pension for lump sum*

**17A**.—(1) This regulation applies to a member who is in superannuable employment on or after 1st April 2008.

(2) A member may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum, which must be an evenly divisible multiple of £12.

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

(4) An option under paragraph (2) must relate to an annual amount of pension that is a number of whole pounds (and accordingly the lump sum will be exactly divisible by 12).

(5) In paragraph (4) “annual amount” in relation to a pension means the amount of the annual pension to which the 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.

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

(7) If the member has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of a pension, paragraph (2) only applies to so much of the pension as exceeds that guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the Scheme Actuary.

(8) Subject to paragraphs (9) and (10), 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) at the time of claiming the pension; or

(b) before a later time specified in writing by the Department.

(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.

**LUMP SUM ON DEATH**

*Member dies in superannuable employment*

**18.—**(1) If a member dies in superannuable employment before reaching age 75, a lump sum on death shall be payable in accordance with regulation 22.

(1A) A lump sum on death shall be payable in accordance with regulation 22 (Payment of lump sum) where, on the day they died, the member is—

(a) under the age of 70;

(b) in HPSS employment;

(c) no longer required to pay contributions from a date that falls before 1st April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulation 13(11) (Early retirement pension (ill health)) or 77(6) (Members doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16.

(1B) A lump sum on death shall be payable in accordance with regulation 22 where, on the day they died, the member is—

(a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;

(b) in HSC employment

(c) no longer required to pay contributions from a date that falls on or after 1st April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulations 13(11), 13A(11) or 77(6) apply, not in receipt of a pension under any of regulations 12 to 16.

(2) Subject to regulation 87 (Benefits on death in superannuable employment after pension becomes payable), the lump sum on death will be equal to twice the member’s final year’s superannuable pay.

*Member dies after pension becomes payable*

**19.—**(1) Subject to paragraph 7 if a member dies after his pension under this Section of the scheme becomes payable a lump sum on death shall be payable in accordance with regulation 22.

(2) Subject to regulation 87, the lump sum on death will be equal to 5 times the yearly rate of the member’s pension (less the amount of pension already paid) provided that the maximum payment under this paragraph shall not exceed an amount equal to twice the member’s final year’s superannuable pay less an amount equal to the aggregate of—

(a) the member’s retirement lump sum paid under regulation 17 (Lump sum on retirement); and

(b) any lump sum paid to the member under regulation 17A (General option to exchange part

pension for lump sum)

(3) A person who retires from superannuable employment on, or after, 6th April 2006 may give notice to the Department in accordance with paragraph (4)(a) that any lump sum payable under this regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Part 2 of Schedule 29 to the 2004 Act.

(4) Such a notice—

(a) shall be given in writing; and

(b) may be revoked in writing at any time.

(5) A lump sum paid under this regulation in respect of a member who became entitled to a pension under regulations 12 to 16 (Benefits) or 49 (Preserved pension) before the 6th April 2006, shall be treated as a pension protection lump sum death benefit but regulation 89A(10**)** shall not apply.

(6) If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(6)(a) or 13C(6)(b), the member’s pension referred to in paragraph (2) means that member’s original tier 2 pension.

(7)  Where a member referred to in paragraph (1) dies on or before 5th April 2011 and had attained the age of 75 at the date of the member’s death—

(a) the lump sum referred to in that paragraph shall cease to be payable; and

(b) shall instead be converted into an annual pension to be determined and paid in accordance with paragraph (8).

(8)  The pension referred to in paragraph (7) shall be—

(a) determined in accordance with guidance and tables provided by the Scheme actuary for the purpose of converting the amount of the lump sum into an annual pension;

(b) paid to the person who would otherwise be entitled to receive the lump sum in accordance with regulation 22; and

(c) paid to that person from the day after the member’s death until the fifth anniversary of the day the member’s pension under this Section of the scheme became payable.

(9)  If, in accordance with regulation 22, a member has given notice that more than one person is to receive a share of the lump sum, each such person shall receive the same percentage of the annual pension as was specified for that person in the member’s notice.

(10) If, in accordance with regulation 22, the annual pension is to be paid to the member’s personal representatives, they may, as part of the distribution of the member’s estate, give irrevocable notice to the Department—

(a) specifying—

(i) one or more individuals, or

(ii) one incorporated or unincorporated body,

to whom the benefit of the pension under this regulation from the date of the receipt of the notice by the Department is to be assigned; and

(b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,

and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.

(11) This paragraph applies if—

(a) the person specified in the notice has died before payment has been made;

(b) payment to the person or body specified in the notice is not, in the opinion of the Department, reasonably practicable; or

(c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that the person’s right to a payment in respect of the member’s death is forfeited.

(12) The prohibition on assignment of benefits in regulation 90 (Benefits not assignable) shall not apply to an assignment by personal representatives under this regulation.

*Member dies with preserved pension*

**20.—**(1) If a member leaves superannuable employment with a preserved pension under regulation 49 (Preserved pension) and dies before his pension under this Section of the scheme becomes payable, a lump sum shall on death be payable in accordance with regulation 22.

(2) The lump sum will be equal to 3 times the yearly rate of the member’s preserved pension, calculated as described in regulation 49.

*Member dies within 12 months after leaving superannuable employment without pension or preserved pension*

**21.—**(1) This regulation applies if a member leaves superannuable employment without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 and dies within 12 months after leaving.

(2) If the member dies before receiving a return of contributions under regulation 50 or before a transfer payment is made under regulation 57 (Early leaver without pension or preserved pension), a lump sum on death shall be payable in accordance with regulation 22.

(3) The lump sum on death will be calculated as described in regulation 20 (Member dies with preserved pension) as if, on leaving superannuable employment, the member had become entitled to a preserved pension calculated as described in regulation 49.

*Payment of lump sum*

**22.—**(1) A lump sum under any of regulations 17 to 21 shall be paid in accordance with the following paragraphs.

(2) If a member dies without leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to the member’s personal representatives.

(3) If a member dies leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to that surviving partner unless—

* + 1. the member has given notice to the Department that the surviving partner is not to receive the payment and has not revoked that notice; or
    2. the surviving partner has been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that the surviving partner’s right to payment in respect of the member’s death shall be forfeited; or
    3. payment to the surviving partner is not, in the opinion of the Department, reasonably practicable,

in which case the lump sum shall be paid to the member’s personal representatives.

(4) If a member dies having made a nomination in favour of one nominee (whether or not he also leaves a surviving partner), the lump sum shall be paid to that nominee unless—

(a) the member has given notice to the Department revoking that nomination; or

(b) the nominee has died before the payment could be made; or

(c) the nominee has been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that his right to payment in respect of the member’s death shall be forfeited; or

(d) payment to the nominee is not, in the opinion of the Department, reasonably practicable,

in which case the lump sum shall be paid to the member’s personal representatives.

(5) If a member dies having made a nomination in favour of two or more persons (whether or not he also leaves a surviving partner) and has not given notice to the Department revoking that notice, the lump sum shall be paid to those nominees, unless—

(a) one or more of those nominees has—

(i) died before the payment could be made; or

(ii) been convicted of an offence specified in regulation 93(1A) and the Department has directed, as a consequence of that conviction, that his or their right to payment in respect of the member’s death shall be forfeited; or

(b) the Department is of the opinion that payment to one or more of the nominees is not reasonably practicable,

in which case the percentage of the lump sum due to that nominee, or as the case may be, those nominees shall be paid to the member’s personal representatives.

(6) A nomination may only be made by a member—

(a) who is in superannuable employment in this Section of the scheme at the time of making the nomination; or

(b) whose superannuable employment in this Section of the scheme ceased on, or after, 1st April 2008.

(7) A nomination shall specify one or more persons who may be—

(a) an individual;

(b) a body corporate;

(c) an unincorporated body;

(d) the member’s personal representatives,

but is not entitled to specify one or more persons referred to in sub-paragraph (a) together with a body referred to in either of sub-paragraphs (b) or (c).

(8) A nomination or notice referred to in this regulation is only valid—

(a) if addressed to the Department;

(b) upon receipt by the Department;

(c) if made (or revoked) in writing;

(d) if it nominates the whole of the lump sum to a nominee and, in the case of a nomination specifying more than one individual, if it also specifies the percentage of the lump sum to be paid to each such individual.

(9) A member who has any superannuable employment in this Section of the scheme on or after 1st April 2008 cannot give a notice referred to in paragraph (3)(a).

(10) If the lump sum on death does not exceed the specified amount, the Department may pay it to any person claiming to be the member’s personal representative or to be entitled to a share of it, without requiring proof of the title of the person concerned.

(11) In paragraph (10), the specified amount means £5,000 or any higher amount specified in an order made under section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967 as the amount to be treated as substituted for references to £500 in section 1 of that Act.

(12) In this regulation “surviving partner” means a—

(a) widow; or

(b) widower; or

(c) civil partner; or

(d) nominated partner,

who survives the member.

(13) In the case of a Waiting Period Joiner, a notice given by a member for the purposes of regulation 87 or 214 of the 2008 Section of the Scheme shall be treated as a nomination or notice given by the member for the purposes of this regulation.

**SURVIVING PARTNER PENSIONS**

*Widows pension*

**23.—**(1) Subject to the following provisions of this regulation, if a male member dies in the circumstances described in any of regulations 24 to 28 and leaves a surviving widow, the widow shall be entitled to a pension as described in whichever of regulations 24 to 28 applies.

(1A) Paragraphs (2) to (7) apply if a member’s superannuable employment ceases before 1st April 2008.

1. Subject to paragraphs (3) to (5) –

(a) no widow’s pension shall be payable in respect of any period during which the widow and a man to whom she is not married are living together as husband and wife;

1. the widow shall cease to be entitled to widow’s pension if she remarries;

(c) no widow’s pension shall be payable in respect of any period during which the widow and a woman who is not her civil partner are living together as if they were civil partners; and

(d) the widow shall cease to be entitled to a widow’s pension if she forms a civil partnership.

(2A) Sub-paragraphs (2)(c) and (d) shall not apply where the member dies before the 5th December 2005.

(3) Nothing in paragraph (2) or (2A) shall affect any entitlement to a widow’s guaranteed minimum pension under this Section of the scheme.

(4) If the Department is satisfied that the widow will otherwise suffer severe financial hardship, the Department may pay a pension to a widow who—

(a) has remarried,

(b) has formed a civil partnership,

(c) is living together as husband and wife with a man to whom the widow is not married,

(d) is living together as if in a civil partnership with a woman who is not the widow’s civil partner.

(5) If the Department is satisfied that the widow will otherwise suffer hardship, the Department may pay a pension to a widow who has—

(a) remarried and that later marriage has come to an end,

(b) formed a civil partnership which has come to an end.

(6) The amount of any pension payable under paragraph (4) or (5) may, at the Department’s discretion, be equal to, or less than, the original widow’s pension and the Department may (subject to any widow’s guaranteed minimum pension) vary the amount, or stop paying the pension, at any time.

(7) If a dependent child is born after the member’s death, any entitlement to a widow’s pension under regulation 24 (Member dies in superannuable employment) or 25 (Member dies after pension becomes payable) will be recalculated as if the child had been born before the member died.

*Member dies in superannuable employment*

**24.—**(1) The widow’s pension payable on a member’s death in superannuable employment will be as described in this regulation.

(2) The widow’s pension for the first 3 months after the member’s death (6 months if the member leaves at least one dependent child who is dependent on the widow) will be equal to the rate of the member’s superannuable pay when he died if that amount is greater than the amount of widow’s pension and child allowance that would otherwise be payable under these Regulations.

(3) Except while the widow’s pension is payable at the rate mentioned in paragraph (2), if the member dies with 2 years’ or more qualifying service, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under this Section of the scheme if the member had retired through ill-health with a pension under regulation 13 (Early retirement pension (ill-health)) on the day he died.

(3A) Paragraphs (3B) to (5) apply if a member dies on or after 1st April 2008.

(3B)  The widow’s pension for the first 6 months after the member’s death will be equal to the rate of the member’s superannuable pay when he died if that amount is greater than the amount of widow’s pension that would otherwise be payable under these Regulations.

(3C)  Except while the widow’s pension is payable at the rate mentioned in paragraph (3B), if the member dies with 2 years or more qualifying service, the widow’s pension will be equal to one-half of the pension to which the member would have been entitled if, on the date of death, the member had become entitled to a tier 2 pension under regulation 13A..

(4) Except while the widow’s pension is payable at the rate mentioned in paragraph (2) or (3B), if the member dies with less than 2 years’ qualifying service but after reaching age 60, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under this Section of the scheme if the member had retired with a pension under regulation 12 (Normal retirement pension) on the day he died.

(5) Except while the widow’s pension is payable at the rate mentioned in paragraph (2) or (3B), if the member dies with less than 2 years’ qualifying service and before reaching age 60, the widow will receive a pension equal to her guaranteed minimum pension under this Section of the scheme, unless the Department discharges its liability to provide this pension by paying a contributions equivalent premium under section 51(2) of the Pension Schemes (Northern Ireland) Act 1993**.**

(6) The widow’s pension payable on a member’s death if, on the day they died, the member is—

(a) under the age of 70;

(b) in HPSS employment;

(c) no longer required to pay contributions on or before the 1st April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulation 77(6) (Members doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16,

will be as described in paragraph (2) and (3), but with the modifications set out in paragraph (7).

(7) The modifications referred to in paragraph (6) are—

(a) in paragraph (2), for “member’s superannuable pay when he died” substitute “member’s final year’s superannuable pay”; and

(b) in paragraph (3), for “on the day he died” substitute “on his last day of superannuable employment”.

(8) The widow’s pension payable on a member’s death if, on the day the member died, the member is—

(a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;

(b) in HSC employment;

(c) no longer required to pay contributions on or after 2nd April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulation 77(6) (Member’s doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16,

will be as described in paragraph (3B) and (3C), but with the modifications set out in paragraph (9).

(9)  The modifications referred to in paragraph (8) are—

(a) in paragraph (3B), for “member’s superannuable pay when he died” substitute “member’s final year’s superannuable pay”, and

(b) in paragraph (3C), for “on the date of death” substitute “on the member’s last day of superannuable employment”.

*Member dies after pension becomes payable*

**25.—**(1) Subject to regulation 28 (Member marries after leaving superannuable employment) and regulation 87 (Benefits on death in superannuable employment after pension becomes payable), the widow’s pension payable on a member’s death after a pension under this Section of the scheme becomes payable will be as described in this regulation.

(2) Subject to paragraph (3), the widow’s pension for the first 3 months after the member’s death (6 months if the member leaves at least one dependent child who is dependent on the widow) will be equal to the member’s pension if that amount is greater than the amount of widow’s pension and child allowance that would otherwise be payable under these Regulations.

(3) For the purposes of paragraph (2), no account will be taken of any reduction to the member’s pension under regulation 85 unless—

(a) the member is—

(i) a 2008 Section Optant within the meaning of regulation 136A or regulation 260A of the 2008 Section of the Scheme, or

(ii) a Waiting Period Joiner within the meaning of regulation 136Y or 260X of that Section, and

(b) on the date of the member’s death the member is an active or non-contributing member of that Section.

(4) Except while the widow’s pension is payable at the rate mentioned in paragraph (2), the widow’s pension will be equal to one-half of the member’s pension.

(5) Where the member was in receipt of a pension payable under regulation 16 (Early retirement pension (with actuarial reduction)), the member’s pension referred to in paragraph (4) means the member’s pension calculated without regard to any reduction made under regulation 16(2).

6)  If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(6)(a) or 13C(6)(b), the member’s pension referred to in paragraph (2) means that member’s original tier 2 pension.

(7) For the purposes of paragraphs (2) and (4), no account will be taken of any reduction to the member’s pension under regulation 17A (General option to exchange part of pension for lump sum).

*Member dies with preserved pension*

**26.—**(1) Except where regulation 28 applies (member marries after leaving superannuable employment), the widow’s pension payable on the death of a member with a preserved pension under regulation 49 (Preserved pension) that had not become payable at the date of death will be as described in this regulation.

(2) If the member leaves superannuable employment before 1st April 2008 and dies within 12 months after leaving, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under this Section of the scheme if the member had retired through ill-health with a pension under regulation 13 on the day he left superannuable employment.

(2A)  If the member leaves superannuable employment on or after 1st April 2008 and dies within 12 months after leaving, the widow’s pension will be equal to one-half of the pension that would have been payable to the member under this Section of the scheme if the member had retired through ill-health with a tier 2 pension under regulation13A on the day he left superannuable employment.

(3) If the member dies 12 months or more leaving superannuable employment, the widow’s pension will be equal to one-half of the member’s preserved pension.

*Member dies within 12 months after leaving superannuable employment without pension or preserved pension*

**27.—**(1) This regulation applies if a member leaves superannuable employment without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 and dies within 12 months after leaving.

(2) If the member dies before receiving a return of contributions under regulation 50 (Refund of contributions) or before a transfer payment is made to which regulation 57 applies (Early leaver without pension or preserved pension) the widow shall be entitled to a widow’s guaranteed minimum pension unless the Department discharges its liability to provide such a pension by paying a contributions equivalent premium under section 51(2) of the Pension Schemes (Northern Ireland) Act 1993.

*Member marries after leaving superannuable employment*

**28.—**(1) This regulation applies where the member and his wife were not married to each other during any period of superannuable employment.

(2) Subject to paragraph (3), the widow’s pension will be equal to one-half of a pension calculated as described in regulation 12 (Normal retirement pension) on the basis of the member’s service after

5th April 1978.

(3) If the member dies after his pension under this Section of the scheme became payable the widow’s pension for the first 3 months after the member’s death (6 months if the member dies leaving at least one dependent child dependent on the widow) will be equal to the amount of the pension that would have been payable under regulation 25 (Member dies after pension becomes payable).

(4) Where the nominated partner referred to in regulation 31E (Surviving nominated partner’s pension) becomes the member’s widow on the member’s death, the widow’s pension will, if it would be more beneficial to the widow, be equal to the nominated partner pension that would have been payable if the widow and the member had not been married to each other.

*Widower’s pension*

**29.—**(1) Subject to the following provisions of this regulation, if a female member dies in the circumstances described in any of regulations 24 to 28 and leaves a surviving widower, the widower shall be entitled to a pension as described in this regulation.

(2) Subject to paragraph (3), regulations 23 to 28 (pensions for widows) apply to the calculation and payment of pensions for widowers in like manner as they apply to pensions for widows.

(3) When calculating a widower’s pension, any part of a member’s benefit that is based on superannuable service before 6th April 1988 will, subject to paragraphs (4) and (5), be disregarded.

(4)  If regulation 24(3), 24(3C), 26(2) or 26(2A) applies to the calculation of the widower’s pension on a member’s death in superannuable employment or with a preserved pension—

(a) the whole of the member’s superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4), in the superannuable service on which the member’s pension under regulation 13 or 13A would have been based; and

(b) the whole period (if any) by which the member’s pension would have been increased will be treated as superannuable service after 5th April 1988.

(5) Where regulation 25(2) applies to the calculation of the widower’s pension, so that the widower’s pension is equal to the member’s pension for a limited period, the widower’s pension for that limited period will be equal to the whole of the member’s pension (including any part of the member’s pension that is based on service before 6th April 1988).

(6) Any reference in these Regulations to regulations 23 to 28 means, in relation to benefits in respect of a female member, those regulations as applicable to the member’s widower (if any).

*Dependent widower’s pension*

**30.—**(1) A female member may, by giving notice in writing to the Department prior to leaving superannuable employment, nominate her husband to receive a dependent widower’s pension on her death.

(2) The Department shall accept the member’s nomination only if it is satisfied that the member’s husband is permanently incapable of earning a living because of physical or mental infirmity and is wholly or mainly dependent on the member.

(3) If the Department has accepted the member’s nomination and the member subsequently dies before her husband, the dependent widower shall be entitled to a dependent widower’s pension.

(4) The dependent widower’s pension will be calculated in the same way as a widow’s pension under regulations 23 to 28 (pensions for widows), but based only on the member’s service before

6th April 1988.

(5) If the Department has accepted a member’s nomination for a dependent widower’s pension and the member’s superannuable service started before 25th March 1972 any lump sum payable to the member under regulation 17 (Lump sum on retirement) will be reduced by an amount equal to 2 times the yearly rate of the part of the member’s pension that is based on service before 25th March 1972 (except to the extent that any reduction has been off-set under regulation 68 (Right to buy an unreduced retirement lump sum)).

(6) Where regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a female member, any reference in those regulations to a lump sum payable on retirement shall mean, in relation to a member to whom paragraph (5) of this regulation refers, a lump sum which is not reduced as described in that paragraph.

*Increased widower’s pension*

**31.—**(1) If a female member elected before 1st July 1989 to buy an increased widower’s pension, the widower’s pension described in regulation 29 (Widower’s pension) will be based on superannuable service after 5th April 1988 plus the period of superannuable service before that date that the member elected to buy for this purpose under regulation 15B of the previous Regulations(Purchase of increased widower’s pension).

(2) Subject to paragraph (3) , any retirement lump sum payable to a member under regulation 17 (Lump sum on retirement), in respect of any period of superannuable service that the member elected to buy as described in paragraph (1), will be reduced by 2 times the yearly rate of the part of the member’s pension that is based on superannuable service before 25th March 1972 and by the yearly rate of the part of the member’s pension that is based on superannuable service after 24th March 1972 plus, in each case, the relevant daily proportion of that rate for each additional day.

(3) Where regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a female member, any reference in those regulations to a lump sum payable on retirement shall mean, in relation to a member to whom paragraph (2) of this regulation refers, a lump sum which is not reduced as described in that paragraph.

(4) Where the member elected to buy an unreduced retiring allowance under paragraph 3 of Schedule 7A to the previous Regulations,regulations 68 (Right to buy an unreduced retirement lump sum) and 73 (Part payment for additional service or unreduced retirement lump sum) will apply to such election as if it had been made under regulation 68.

(5) If a female member who has made an election under this regulation—

(a) is in superannuable employment on 1st April 2008, or returns to such employment after that date; and

(b) dies without leaving a widower but leaving a surviving civil partner or, as the case may be, a surviving nominated partner,

the widower’s pension described in paragraph (1) shall be paid to that surviving partner.

*Surviving civil partner’s pension*

**31A.**—(1) Subject to the following provisions, if a member who is in a civil partnership dies in the circumstances described in any of the regulations 24 to 28 and leaves a surviving civil partner, the surviving civil partner shall be entitled to a pension as described in this regulation.

(2) Subject to paragraph (3) regulations 23 to 28 apply to the calculation and payment of pensions for surviving civil partners in like manner as they apply to pensions for widows.

(3) When calculating a surviving civil partner’s pension, any part of the member’s benefit that is based on superannuable service before the 6th April 1988 will, subject to paragraphs (4) and (5), be disregarded.

(4) If regulation 24(3), 24(3C), 26(2) or 26(2A) applies to the calculation of the surviving civil partner’s pension on a member’s death in superannuable employment or with a preserved pension—

(a) the whole of the member’s superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4), in the superannuable service on which the member’s pension under regulation 13 or 13A would have been based; and

(b) the whole period (if any) by which the member’s pension would have been increased will

be treated as superannuable service after 5th April 1988.

(5) Where regulation 25(2) applies to the calculation of the surviving civil partner’s pension, so that the surviving civil partner’s pension is equal to the member’s pension for a limited period, the surviving civil partner’s pension for that limited period will be equal to the whole of the member’s pension (including any part of the member’s pension that is based on superannuable service before 6th April 1988).

(6) Any reference in these Regulations to regulation 23 to 28 means, in relation to benefits in respect of a member who has formed a civil partnership, those regulations as applicable to the member’s surviving civil partner (if any).

*Dependant surviving civil partner’s pension*

**31B.**—(1) A member who has formed a civil partnership may, by giving notice in writing to the Department prior to leaving superannuable employment, nominate the other party to the civil partnership to receive a dependent surviving civil partner’s pension on the member’s death.

(2) The Department shall accept the member’s nomination only if it is satisfied that the member’s civil partner is permanently incapable of earning a living because of physical or mental infirmity and is wholly or mainly dependent on the member.

(3) If the Department has accepted a member’s nomination and the member subsequently dies before the other party to the civil partnership, the dependent surviving civil partner shall be entitled to a dependent surviving civil partner’s pension.

(4) The dependent surviving civil partner’s pension shall be calculated in the same way as a widow’s pension under regulations 24 to 28 (Widows, widowers and surviving civil partners), but based only on the member’s superannuable service before 6th April 1988.

(5) If the Department has accepted a member’s nomination for a dependent surviving civil partner’s pension and the member’s superannuable service commenced before 6th April 1988 any lump sum payable to the member will be reduced by an amount equal to 1.4 times the yearly rate of the part of the member’s pension that is based on superannuable service before 6th April 1988 (except to the extent that any reduction has been off-set under regulation 68 (Right to buy an unreduced retirement lump sum)).

(6) Where regulation 13(10), regulation 13A(10) (Early retirement pension (ill health)) or regulation 49(8) (Preserved pension) applies to a member who has formed a civil partnership, any reference

in those regulations to a lump sum payable on retirement shall mean, in relation to a member to whom paragraph (5) of this regulation refers, a lump sum which is not reduced as described in that paragraph.

*Purchase of surviving civil partner’s pension in respect of service prior to 6th April 1988*

**31C.**—(1) Subject to the following provisions an officer or practitioner, unless he is a person in respect of whom a pension has already become payable under regulation 13 (Early retirement pension (ill health)) and to whom regulation 13(11) applies, may, in respect of the whole or any part of his contributing service prior to 6th April 1988, elect to purchase an increase in the amount of any surviving civil partner’s pension which may become payable by virtue of regulation 31A.

(2) The purchase of an increase pursuant to paragraph (1) may be made only in respect of complete years of service unless the officer or practitioner wishes to purchase an increase in respect of all his service before 6th April 1988 in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election pursuant to paragraph (1)—

(a) shall not be made later than 4th March 2007 by giving notice in writing to the Department specifying the period in respect of which the election is made;

(b) must be accompanied by a declaration in writing signed by the officer or practitioner that he is of sound health for his age; and

(c) shall be irrevocable.

(4) Schedule 1, tables 2 and 4 multiplied by a factor of 0.7 shall have effect with regard to the cost of providing the increase provided pursuant to paragraph (1).

*Increased surviving civil partner’s pension*

**31D.**—(1) If a member who has formed a civil partnership elected on or before 4th March 2007 to buy an increased surviving civil partner’s pension described in regulation 31C(1), the surviving civil partner’s pension described in regulation 31A will be based on superannuable service after 6th April 1988 plus the period of superannuable service before that date that the member elected to buy for this purpose under regulation 31C(1).

(2) Subject to paragraph (3) any retirement lump sum payable to a member under regulation 17 (Lump sum on retirement), in respect of any period of superannuable services that the member elected to buy as described in paragraph (1), will be reduced by 1.4 times the yearly rate of the member’s pension plus the relevant daily proportion of that rate for each additional day (except to the extent that any lump sum reduction has been off-set under regulation 68 (Right to buy an unreduced retirement lump sum).

(3) Where regulation 13(10), regulation 13A(10) (Early retirement pension (ill health)) or regulation 49(8) (Preserved pension) applies to a member who has formed a civil partnership, any reference

in those regulations to a lump sum payable on retirement shall mean, in relation to a member to whom paragraph (2) refers, a lump sum which is not reduced as described in that paragraph.

(4) Subject to paragraph (5) where by virtue of an election under regulation 31C(1) the amount of the retirement lump sum would fall to be reduced by 1.4 times the yearly rate of the member’s pension plus the relevant daily proportion of that rate for each additional day, he may make an election to purchase an unreduced lump sum under regulation 68 (Right to buy an unreduced retirement lump sum) provided the election is made no later than 4th March 2007.

(5) A member who has purchased additional services in accordance with regulation 67 (Right to buy additional service) by way of a payment under regulation 72 (Paying for additional service or unreduced retirement lump sum by regular additional contributions) may not make an election under paragraph (4) in respect of the purchase of an unreduced lump sum.

(6) If a member who has made an election under this regulation—

(a) is in superannuable employment on 1st April 2008, or returns to such employment after that date; and

(b) dies without leaving a civil partner but leaving a surviving widower or, as the case may be, a surviving nominated partner,

the surviving civil partner’s pension described in paragraph (1) shall be paid to that surviving widower, or as the case may be, that surviving nominated partner.

*Surviving nominated partner’s pension*

**31E.**—(1) A member whose superannuable employment ceases on or after 1st April 2008 may, by giving notice in writing to the Department, nominate a person (“the nominated partner”) to receive a surviving nominated partner pension on the member’s death and such a nomination shall be effective from the date the Department accepts it.

(2) The Department must accept a member’s nomination if—

(a) the member and the nominated partner have jointly made and signed a declaration in the form required by the Department that remains effective at the member’s death; and

(b) the nominated partner satisfies the Department that for a continuous period of at least two years ending with the member’s death—

(i) the member and the nominated partner were living together as if they were husband and wife or civil partners;

(ii) the member and the nominated partner were not prevented from marrying or entering

into a civil partnership;

(iii) the member and the nominated partner were financially interdependent or the nominated partner was financially dependent on the member; and

(iv) neither the member nor the nominated partner was living with a third person as if they

were husband and wife or as if they were civil partners.

(3) A declaration under paragraph (2)(a) ceases to have effect if—

(a) it is revoked by the member or the nominated partner by a signed notice in writing given to the Department in the required form (if any); or

(b) the member makes a later declaration under paragraph (2)(a); or

(c) the member or the nominated partner marries or enters into a civil partnership.

(4) If the Department has accepted a member’s nomination and the member subsequently dies before his nominated partner in the circumstances described in any of regulations 24 to 28 the nominated partner is entitled to a pension as described in paragraphs (6) to (10).

(5) Subject to paragraph (6), regulations 23 to 28 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows, and paragraph (1) of regulation 28 shall be read as if, for the words “where the member and his wife were not married to each other during any period of superannuable employment”, it said “where a nomination for a surviving partner pension becomes effective after all superannuable employment has ceased”.

(6) When calculating a nominated partner’s pension, any part of the member’s benefit that is based on superannuable service before 6th April 1988 will, subject to paragraphs (7) and (8), be disregarded.

(7) If paragraph (3) or (3C) of regulation 24 or paragraph (2) or (2A) of regulation 26 apply to the calculation of the nominated partner’s pension on a member’s death in superannuable employment or with a preserved pension—

(a) the whole of the member’s superannuable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation 13(3) or 13A(4) in the superannuable service on which the member’s pension under regulation 13 or 13A would have been based; and

(b) the whole period (if any) by which the member’s pension would have been increased will be treated as superannuable service after 5th April 1988.

(8) If regulation 25(2) applies to the calculation of the nominated partner’s pension, so that the nominated partner’s pension is equal to the member’s pension for a limited period, the nominated partner’s pension for that limited period will be equal to the whole of the member’s pension (including any part of the member’s pension that is based on superannuable service before 6th April 1988).

(9) Any reference in these Regulations to regulations 23 to 28 means, in relation to benefits in respect of a member who has nominated a partner, those regulations as applicable to the member’s nominated partner (if any).

(10) In the case of a waiting Period Joiner, a declaration or notice given by a member for the purposes of regulation 68 or 195 of the 2008 Section of the Scheme shall be treated as a declaration or notice given by that member for the purposes of this regulation.

*Dependant surviving nominated partner’s pension*

**31F.**—(1) A member may, by giving notice in writing to the Department before leaving

superannuable employment, apply for his nominated partner to receive a dependent surviving

nominated partner’s pension on the member’s death.

(2) The Department must accept a member’s application only if it is satisfied that the

member’s nominated partner is—

(a) permanently incapable of earning a living because of physical or mental infirmity; and

(b) wholly or mainly dependent on the member.

(3) If the Department has accepted a member’s application and the member subsequently

dies before his nominated partner, the dependent surviving nominated partner is entitled to a

dependent surviving nominated partner’s pension.

(4) The dependent surviving nominated partner’s pension is to be calculated in the same way

as a widow’s pension under regulations 23 to 28 but based only on the member’s superannuable

service before 6th April 1988.

(5) If the Department has accepted a member’s application for a dependent surviving

nominated partner’s pension and the member’s superannuable service started before 6th April

1988 any lump sum payable to the member will be reduced by an amount equal to 1.4 times the

yearly rate of the part of the member’s pension that is based on superannuable service before 6th

April 1988 (except to the extent that any reduction has been off-set under regulation 68).

(6) If regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a member who has

a nominated partner, any reference in those provisions to a lump sum payable on retirement means,

in relation to a member to whom paragraph (5) refers, a lump sum that is not reduced as described

in that paragraph.

*Purchase of surviving partner’s pension* *in respect of service before 6th April 2008*

**31G.**—(1) Subject to this regulation, an officer in respect of whom a pension has not already

become payable under regulation 13 or 13A may, in respect of the whole or any part of his

contributing service before 6th April 1988, elect to purchase an increase in the amount of any

survivor’s pension that becomes payable under this Section of the scheme.

(2) The purchase of an increase under paragraph (1) may be made only in respect of complete

years of service, unless the officer wishes to purchase an increase in respect of all of his service

before 6th April 1988, in which case the whole of the requisite period may be purchased whether

or not it constitutes a multiple of complete years of service.

(3) An election under paragraph (1)—

(a) must not be made later than 30th June 2009;

(b) must be made by notice in writing, given to the Department;

(c) must specify the period in respect of which the election is made;

(d) must be accompanied by a declaration in writing signed by the officer that he is of sound

health for his age;

(e) is irrevocable.

(4) Each figure in tables 2 and 4 of Schedule 1 is multiplied by a factor of 0.7 in respect of

the cost of providing the increase provided under paragraph (1).

(5) In this regulation “survivor’s pension” means a pension that becomes payable by virtue

of—

(a) regulation 29; or

(b) regulation 31A; or

(c) regulation 31E.

*Increased surviving partner’s pension*

**31H.**—(1) If a member elects on or before 30th June 2009 to buy an increased surviving

partner’s pension under regulation 31G(1), any survivor’s pension that becomes payable in

respect of that member will be based on superannuable service after 5th April 1988 plus any

period of superannuable service before that date that the member elected to buy for this purpose

under regulation 31G(1).

(2) Any survivor’s pension payable in respect of the member shall be paid to (as the case

may be) the member’s surviving widower, civil partner or nominated partner regardless of

whether that pension is payable by virtue of regulation 29, regulation 31A or regulation 31E.

(3) Subject to paragraph (4), any retirement lump sum payable to a member under regulation

17, in respect of any period of superannuable service that the member elected to buy as described

in paragraph (1), will be reduced by 1.4 times the yearly rate of the member’s pension plus the

relevant daily proportion of that rate for each additional day (except to the extent that any lump

sum reduction has been off-set under regulation 68) (Right to buy an unreduced retirement lump

sum).

(4) If regulation 13(10), regulation 13A(10) or regulation 49(8) applies to a member to whom

this regulation refers, any reference in those regulations to a lump sum payable on retirement

must be taken to mean a lump sum that is not reduced as described in paragraph (2).

(5) Subject to paragraph (6) if, by virtue of an election under regulation 31G(1), the amount

of the retirement lump sum would fall to be reduced by 1.4 times the yearly rate of a member’s

pension plus the relevant daily proportion of that rate for each additional day, he may make an

election to purchase an unreduced lump sum under regulation 68 provided that the election is

made no later than 30th June 2009.

(6) A member who has purchased additional service in accordance with regulation 67 by way

of a payment under regulation 72 is not entitled to make an election under paragraph (4) in respect

of the purchase of an unreduced lump sum.

**CHILD ALLOWANCE**

*Dependent child*

**32.—**(1) Subject to the provisions of this regulation, “dependent child” means any child who is –

(a) a child or grandchild of the member;

(b) a stepchild of the member by a marriage entered into, or a civil partnership formed before the date on which the member leaves superannuable employment or a child legally adopted

by the member before that date;

(c) a brother or sister, or a child of a brother or sister, of the member or the member’s spouse or civil partner or nominated partner (any half-brother or step-brother being treated as a brother, and any half-sister or step-sister being treated as a sister, for this purpose); or

(d) a child who, immediately before the member left superannuable employment the member had intended to adopt, or a child who, at that time, had been dependent on the member for 2 years or (if less) half the child’s life;

(e) a child of a member’s nominated partner from a nominated partnership formed before the date on which the member leaves superannuable employment,

and who satisfies the requirements of paragraph (2).

1. The requirements of this paragraph are satisfied by any child described in paragraph (1) who is –

(a) born before the member leaves superannuable employment and who is dependent on the member when the member dies and, if the member dies after leaving superannuable employment, is also dependent on the member when the member leaves superannuable employment; or

(b) born one year or less after the member leaves superannuable employment, and who is dependent on the member immediately after being born; and

      (c) where the member has died, born one year or less after the date of death of the member and would have become dependent on the member if the member had not died before the child was born.

(2A) A child is a dependent child of a person whose superannuable employment ceases on or after 1st April 2008 for so long as he is—

(a) under age 23; or

(b) aged 23 or over and incapable of earning a living because of permanent physical or mental

infirmity from which he was suffering at the time the member died.

(3) Subject to paragraphs (6) and (7), a child is a dependent child of a person whose superannuable employment ceases on or before 31st March 2008 for so long as he is—.

(a) under age 17; or

(b) aged 17 or over but has not reached the age of 23 and continuing in full-time

education; or

(c) aged 17 or over but has not reached the age of 23 and in full-time training for a trade, profession or vocation, for which he is not receiving remuneration in excess of the allowable maximum; or

(d) aged 17 or over but has not reached the age of 23 and in a break in full-time education, or full-time training providing the Department is satisfied that the child intends to return to some such education or training; or

(e) aged 17 or over but has not reached the age of 23 and is incapable of earning a

living because of permanent physical or mental infirmity from which he started to

suffer whilst qualifying as a dependent child; but such a person will only be treated

as a dependent child for so much of the period commencing with the day on which

he attains the age of 17 and ending immediately before the day on which he attains

the age of 23, during which he remains incapable of earning a living.

(4) A child who is aged 17 or over but has not reached the age of 23 and who has ceased to be a dependent child will be treated as a dependent child if he returns to full-time education, or to full-time training for a trade, profession or vocation for which he is not receiving remuneration in excess of the allowable maximum, before reaching age 21 and within 12 months after ceasing to be a dependent child.

(5) In this regulation the “allowable maximum” means the amount to which a pension of £1702 a year beginning on 11th April 1994 would have been increased under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 at the date in question, plus the yearly amount of any expenses necessarily incurred for the purposes of the education or training.

(6) A child who is incapable of earning a living because of permanent physical or mental infirmity from which he was suffering at the time the member died will be treated as a dependent child for so long as he remains incapable of earning a living.

(7) Where—

(a) a dependent child became entitled to a child allowance under regulation 33 (Payment of allowance) before 6th April 2006; or

(b) the dependency of a child born on, or before, 5th April 2007 is to be assessed in respect of a person who became entitled to a pension under regulations 12 to 16 (Benefits) or 49 (Preserved pension) before 6th April 2006,

paragraphs (3)(b), (c) and (d) and paragraph (4) shall be read as if they did not include the words “but has not reached the age of 23”, paragraph (3)(e) shall not apply and paragraph (6) shall be read as if it included the words “or from which he started to suffer whilst qualifying as a dependent child” after the words “the member died”.

*Payment of allowance*

**33.—**(1) Subject to the following provisions of this regulation, if a member dies in the circumstances described in any of regulations 34 to 38 and leaves a dependent child, the dependent child shall be entitled to a child’s allowance as described in this regulation and whichever of regulations 34 to 38 is applicable.

(2) If a dependent child is born after the member’s death, child allowance shall be payable as if the child had been born before the member died.

(3) The child allowance will be paid to the child or, where the Department so decides, to some other person for the child’s benefit and, where there is more than one dependent child, the allowance will be shared between them in such shares as the Department may decide from time to time.

(4) Where a child is a dependent child by virtue of regulation 32(3)(d), the child allowance shall cease to be payable after 12 months if the child has not then returned to full-time education, or full-time training for a trade, profession or vocation, but will be reinstated if the child later returns to some such education or training and the Department is satisfied that the child intended to do so from the start of the break.

(5) No allowance shall be payable to, or for the benefit of, a child who is incapable of earning a living because of permanent physical or mental infirmity for any period exceeding one month during which the child is maintained out of money provided by Parliament in a hospital or other institution.

(6) Where a child is a dependent child in relation to 2 or more members, all of whom die, child allowance shall be payable in respect of not more than 2 of those members and, if there are more than 2 such members, shall be equal to the sum of the 2 highest allowances.

(7) The child allowance shall cease to be payable when there is no remaining dependent child.

*Member dies in superannuable employment*

**34.—**(1) The child allowance payable in the case of a member who dies whilst in superannuable employment will be as described in this regulation.

(2) Subject to paragraph (3), if the member dies before 1st April 2008 the allowance will be calculated, as described in whichever of paragraphs (4) to (7) apply, as a proportion of the pension that would have been payable to the member under this Section of the scheme if the member had retired through ill-health with a pension under regulation 13 (Early retirement pension (ill health)) on the day he died.

(2A) If the member died on or after 1st April 2008 the allowance will be calculated as described in whichever of paragraph (4A) or (4D) applies—

(a) as a proportion of the pension that would have been payable to the member under this

Section of the scheme if the member retired through ill-health and had qualified or a tier 2 pension under regulation 13A on the day the member died; or

(b) if greater, the amount that pension would have been if it had been based on 10 years superannuable service.

(3) If the member dies with less than 5 years’ superannuable service, the allowance will be calculated as if the pension described in paragraph (2) were based on the shorter of -

(a) 10 years’ superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in

superannuable employment until age 65.

(4) Subject to paragraphs (5) to (8) if the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2) if there is only one dependent child, and one-half if there are two or more.

(4A) Subject to paragraphs (4B) to (4E), if the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2A) if there is only one dependent child and one-half if there are two or more.

(4B) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation 24(3B), the allowance payable in respect of any dependent child who is dependent on that widow, widower, surviving civil partner or surviving nominated partner will be payable from the day following the member’s death.

(4C) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation 24(3B) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or surviving nominated partner, the allowance in respect of that child for the first three months after the member’s death will be equal to the rate of member’s superannuable pay when the member died.

(4D) If a member dies leaving a dependent child and there is no surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-third of the pension described in paragraph (2A) if there is only one dependent child and two-thirds if there are two or more, except that the allowance for the first six months after the member’s death will be equal to the rate of the member’s superannuable pay when the member died.

(4E) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent) but there is no entitlement to a widow’s, widower’s or surviving civil partner’s pension calculated under regulation 24 (Member dies in superannuable employment), the allowance will be paid at the rates described in paragraph (4D).

(5) If a widow’s, widower’s or surviving civil partner’s pension is payable at the rate mentioned in regulation 24(2), no allowance shall be payable in respect of any dependent child who is dependent on the widow, widower or surviving civil partner pension until the end of the first 6 months after the member’s death.

(6) If a widow’s, widower’s or surviving civil partner’s pension is payable at the rate mentioned in regulation 24(2) but, there is a dependent child who is not dependent on that widow, widower or surviving civil partner, the allowance in respect of that child for the first 3 months after the member’s death will be equal to the rate of the member’s superannuable pay when he died.

(7) If the member dies leaving a dependent child and there is no surviving parent (or spouse or civil partner of a parent), the allowance will be equal to one-third of the pension described in paragraph (2) if there is only one dependent child and two-thirds if there are two or more, except that the allowance for the first 6 months after the member’s death will be equal to the rate of the member’s superannuable pay when he died.

(8) If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner of a parent) but there is no entitlement to a widow’s, widower’s or surviving civil partner’s pension under regulation 24 (Member dies in superannuable employment), the allowance will be paid at the rates described in paragraph (7).

(9) The child allowance payable on a member’s death if, on the day they died, the member is—

(a) under the age of 70;

(b) in HPSS employment;

(c) no longer required to pay contributions on or before 1st April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulation 77(6) (Members doing more than one job) applies, not in receipt

of a pension under any of regulations 12 to 16,

will be as described in paragraph (2), but with the modifications set out in paragraph (10).

(10) The modifications referred to in paragraph (9) are—

(a) in paragraph (2), for “on the day he died” substitute “on his last day of superannuable employment”; and

(b) in each of paragraphs (6) and (7), for “member’s superannuable pay when he died” substitute “member’s final year’s superannuable pay”.

(11) The child allowance payable on a member’s death if, on the day the member died, the member is—

(a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;

(b) in HSC employment;

(c) no longer required to pay contributions on or after 2nd April 2008 pursuant to regulation 10(3) or (4) (Contributions by members); and

(d) except where regulation 77(6) (Members doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16,

will be as described in paragraph (2A) but with the modifications set out in paragraph (12).

(12) The modifications referred to in paragraph (11) are—

(a) in paragraph (2A)(a) for “on the day he died” substitute “on the member’s last day of

superannuable employment”; and

(b) in both paragraphs (4C) and (4D) for “member’s superannuable pay when he died” substitute

“member’s final year’s superannuable pay”.

*Member dies after pension becomes payable*

**35.—**(1) The child allowance payable in the case of a member who dies after a pension under this Section of the scheme becomes payable will be as described in this regulation.

(2) Subject to paragraphs (2A) and (8)—

(a) the allowance will be calculated as described in whichever of paragraphs (3) or (4) apply; and

(b) where the member was, on the date of the member’s death—

(i) not a 2008 Section Optant within the meaning of regulation 136A or regulation 260A or a Waiting Period Joiner within the meaning of regulation 136Y or 260X of the 2008 Section of the Scheme (application of Chapter 10 of Part 2 and Chapter 10 of Part 3, respectively), whose pensionable service—

(aa) equalled, or exceeded, 10 years, as a proportion of the amount of the member’s pension based on that service;

(bb) was less than 10 years, as a proportion of the amount the member’s pension would have been if it had been based on 10 years pensionable service,

(ii) such a 2008 Section Optant or Waiting Period Joiner, as a proportion of the amount of the member’s pension.

(2A) If the member’s superannuable employment ceased on or before 31st March 2008, the allowance will be calculated in whichever of paragraph (3) or (4) applies, as a proportion of the amount of the member’s pension or, if greater, the amount that the member’s pension would have been if it had been based on the shorter of—

(a) 10 years superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable

employment until age 65.

1. If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner or nominated partner of a parent), the allowance will, subject to paragraphs (5) to (7), be equal to one-quarter of the pension described in paragraph (2) if there is only one dependent child, and one-half if there are two or more.

(4) If the member dies leaving a dependent child and there is no surviving parent or no surviving spouse or civil partner or nominated partner of a parent, the allowance—

(a) for the period of 6 months beginning with the member’s death, will be the greater of—

(i) the amount of the member’s pension calculated without regard to any reduction made under regulation 85 (Reduction of pension on return to HSC employment), and

(ii) the amount of child allowance that would otherwise be payable under these Regulations;

(b) following the period referred to in sub-paragraph (a), will be equal to—

(i) one-third of the pension described in paragraph (2) if there is only one dependent child,

(ii) two-thirds of the pension described in paragraph (2) if there are two or more dependent children.

(5) If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner or nominated partner of a parent) but there is no entitlement to a widow’s, widower’s or surviving civil partner’s or surviving nominated partner’s pension under regulation 25 (Member dies after pension becomes payable), the allowance will be paid at the rates described in paragraph (4).

(6) If a widow’s, widower’s or surviving civil partner’s or surviving nominated partner’s pension is payable at the rate mentioned in regulation 25(2), no allowance shall be payable in respect of any dependent child who is dependent on the widow, widower or surviving civil partner or surviving nominated partner until the end of the first 6 months after the member’s death.

(7) If a widow’s, widower’s or surviving civil partner’s or surviving nominated partner’s pension is payable at the rate mentioned in regulation 25(2) but there is a dependent child who is not dependent on that widow, widower or surviving civil partner or surviving nominated partner the allowance in respect of that child for the first 3 months after the member’s death, will be equal to the rate of the member’s pension.

(8) Where the member was in receipt of a pension payable under regulation 16 (Early retirement pension (with actuarial reduction)), the member’s pension referred to in paragraph (2) means the member’s pension calculated without regard to the reduction made under regulation 16(2).

(9) If a member who was in receipt of a substitute tier 1 pension under regulation 13C dies before the end of the protection period that applies to him under regulation 13C(6)(a) or 13C(6)(b), the member’s pension referred to in paragraph (2) means that member’s original tier 2 pension.

(10) For the purpose of paragraphs (2) and (7), no account will be taken of any reduction to the member’s pension under regulation 17A (General option to exchange part of pension for lump

sum).

*Member dies with preserved pension*

**36.—**(1) The child allowance payable on the death of a member with a preserved pension under regulation 49 (Preserved pension) that has not become payable will be as described in this regulation.

(2) Subject to paragraph (2A), if the member dies within 12 months after leaving superannuable employment, the allowance will be calculated, as described in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the pension described in regulation 34(2A) as if the member had died on the day he left superannuable employment.

(2A) Subject to paragraph (2B) if the member’s superannuable employment ceased on or before 31st March 2008 the allowance will be calculated, as described in whichever of paragraph (4) or (5) applies, as a proportion of the pension that would have been payable to the member under this Section of the scheme if the member retired through ill-health with a pension under regulation 13 on the day the member died.

(2B) If the member has less than 5 years’ superannuable service, the allowance will be calculated as if the pension described in paragraph (2A) were based on the shorter of—

(a) 10 years’ superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable

employment until age 65.

(3) Subject to paragraph (3A), if the member dies 12 months or more after leaving superannuable employment, the allowance will be calculated as described in whichever of paragraph (4) or (5) applies, as a proportion of the amount of the member’s preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on 10 years superannuable service.

(3A) If the member’s superannuable employment ceased on or before 31st March 2008, the allowance will be calculated as described in whichever of paragraph (4) or (5) applies, as a proportion of the amount of the member’s preserved pension or, if greater, the amount of that the preserved pension would have been if it had been based on the shorter of—

(a) 10 years superannuable service; and

(b) the superannuable service the member could have completed if he had stayed in superannuable

employment until age 65.

(4) If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner or nominated partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraphs 2 to (3A) (whichever is applicable) if there is only one dependent child, and two-thirds if there are two or more.

(5) If the member dies leaving a dependent child and there is no surviving parent (or spouse or civil partner or nominated partner of a parent), the allowance will be equal to one-third of the pension described in paragraphs 2 to (3A) (whichever is applicable) if there is only one dependent child, and two-thirds if there are two or more.

(6) If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner or nominated partner of a parent) but there is no entitlement to a widow’s, widower’s, surviving civil partner’s or surviving nominated partner’s pension calculated under regulation 26 (Member dies with preserved pension), the allowance will be paid at the rate described in paragraph (5).

*Member dies within 12 months after leaving superannuable employment without pension or preserved pension*

**37.—**(1) The child allowance payable in a case where a member leaves superannuable employment without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 and dies within 12 months after leaving and before receiving a refund of contributions under regulation 50 will be as described in this regulation.

(2) The child allowance will be calculated as described in regulation 36 (Member dies with preserved pension) as if, on leaving superannuable employment, the member had become entitled to a preserved pension calculated as described in regulation 49.

*Child not dependent on surviving parent or spouse of a parent*

**38.—**(1) If a member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner or nominated partner of a parent) and at least one dependent child who is not being maintained by the surviving parent (or spouse or civil partner or nominated partner of a parent), the Department may increase the amount of the child allowance that would otherwise be payable under these Regulations.

(2) The allowance may, at the Department’s discretion, be increased up to an amount equal to the amount that would have been payable if there were no surviving parent (or spouse or civil partner or nominated partner of a parent).

**ALLOCATION TO A SPOUSE OR DEPENDENT**

*Allocation of pension*

**39.—**(1) Subject to the following provisions of this regulation, a member may elect to allocate part of his pension under this Section of the scheme so as to provide, following his death, a pension for a spouse, a civil partner or a dependant.

(2) Any pension provided for a spouse, a civil partner under this regulation shall be payable in addition to any other widow’s, widower’s or surviving civil partner’s pension under these Regulations.

(3) Any pension provided under this regulation will be calculated in accordance with tables prepared by the Scheme Actuary.

1. A member wishing to allocate part of his pension under this regulation may elect to do so –

(a) on making a claim for payment of his benefits under regulation 88 (Claims for benefits), or

at any time after making such a claim but before the date on which a pension payable to him

under this Section of the scheme is put into payment; or

(b) if in superannuable employment—

(i) in the case of a member who is not a special class officer, at any time after completing

45 years superannuable service; or

(ii) in the case of a member who is a special class officer, at any time after reaching age

55 and completing 40 years superannuable service, or

1. if in superannuable employment, at any time after reaching age 65 (60 for special class officers).

(5) A member wishing to allocate part of his pension as described in this regulation shall do so by giving notice in writing to the employing authority on the form provided, giving such information as the Department may require.

(6) The Department shall not accept an election unless satisfied that the member is in good health.

(7) If a member allocates part of his pension as described in this regulation and then dies after the pension becomes payable, the amount of pension already paid to the member under this Section of the scheme will be treated, for the purpose of calculating the lump sum on death payable under regulation 19 (Member dies after pension becomes payable), as including the amount of the additional pension that would have been paid to the member if the member had not allocated part of his pension.

*Limits on allocation of pension*

**40**.—(1) A member may not allocate more than one-third of his pension to provide a pension on his death for a spouse, a civil partner or a dependant and must keep a pension at least equal to his guaranteed minimum pension.

(2) A member may not allocate so much pension as to provide a bigger dependant’s pension, spouse’s pension or civil partner’s pension under regulation 39 than the pension he has kept for himself.

(3) The part of a member’s pension that is allocated must be an exact number of pounds and must be sufficient to provide a pension for the dependant, spouse or civil partner of at least £260 a year or, if greater, of the minimum amount that cannot be treated as trivial for the purposes of regulation 94 (Commutation of trivial pension).

(4) If a member elects to allocate part of his pension in the circumstances described in regulation 39(4)(b) or (c) and then dies before his pension under this Section of the scheme becomes payable the member will be treated, for the purposes of paragraphs (1) to (3) above, as entitled to the pension he would have received if he had retired immediately before his death.

*Date on which allocation has effect*

**41.—**(1) An election to allocate shall have effect, and may not be withdrawn or cancelled, once it has been accepted by the Department.

(2) The allocation will not take effect if -

(a) the member dies on or before the day on which the Department accepts the member’s election;

(b) the dependent, spouse or civil partner dies before the member is told that the Department has accepted the election; or

(c) the member withdraws his application before it is accepted by the Department.

**PART IV**

**CONTRACTING-OUT REQUIREMENTS**

*Contracting-out requirements to be overriding*

**42.—**(1) This Section of the Scheme will be administered in conformity with the contracting-out conditions and, with the exception of the circumstances specified in paragraph (2), regulations 43 to 48 override any inconsistent provisions of these regulations.

(2) The circumstances referred to in paragraph (1) are—

(a) if a trivial pension is commuted in accordance with regulation 94; or

(b) if a pension is commuted in accordance with regulations 13(10), 13A(10) or 49(5); or

(c) if a pension is forfeited for the reasons specified in sub-paragraphs (b) or (c) of regulation 93(1).

(3) In this Part—

(a) “contracting-out conditions” means the conditions specified in sections 5(2A) and 5(2B) of the 1993 Act;

(b) “guaranteed minimum” means the guaranteed minimum as defined in sections 9 to 13 of the

1993 Act;

(c) “guaranteed minimum pension” is a pension calculated in accordance with the guaranteed

minimum requirements;

(ca) “guaranteed minimum pension age” means age 65 in the case of a man or age 60 in the case of a woman;

(d) “protected rights” has the same meaning as in the 1993 Act.

*Guaranteed minimum pensions*

**43.—**(1) This regulation applies where the member has a guaranteed minimum, in relation to the pension provided for the member under this Section of the scheme, in accordance section 9 of the 1993 Act.

(2) The weekly rate of the member’s pension from guaranteed minimum pension age will not be less than the member’s guaranteed minimum, except that -

(a) payment may at the discretion of the Department be postponed for up to 5 years if the member remains in HPSS employment, or for any period if the member consents; and

(b) payment may be reduced or suspended under regulation 84 (Suspension of pension on return to HPSS employment) or regulation 85 (Reduction of pension on return to HPSS employment) if the member returns to HPSS employment,

in either of which cases the member’s guaranteed minimum pension will be increased as described in regulation 44 (Late retirement).

(3) If the member is a man and dies leaving a widow, the weekly rate of the widow’s pension will not be less than half the member’s guaranteed minimum.

(4) If the member is a woman and dies leaving a widower, the weekly rate of the widower’s pension will not be less than half the part of the member’s guaranteed minimum that is attributable to earnings for the tax years 1988-89 to 1996-97 inclusive.

(4A) If the member is in a civil partnership and dies leaving a surviving civil partner, the weekly rate of the surviving civil partner’s pension will not be less than one-half of the part of the member’s guaranteed minimum that is attributable to earnings for the tax years 1988-89 to 1996-97 inclusive.

(5) The part of any guaranteed minimum pension that is attributable to earnings for the tax years 1988-89 to 1996-97 inclusive and subsequent tax years will increase in each year by the percentage specified in any order made by the Department under section 105 of the Pension Schemes (Northern Ireland) Act 1993 (annual increases of guaranteed minimum pensions).

(6) A member who on leaving superannuable employment—

(a) becomes entitled to a refund of contributions under regulation 50; or

(b) exercises a right to require a transfer or buy-out in accordance with regulation 54,

but, in either case, remains (as described in regulation 50(3)) entitled to a guaranteed minimum pension or section 5(2B) rights, shall be entitled to the benefits specified in paragraph (7).

(7) The benefits are—

(a) a pension payable from the date on which the member reaches guaranteed minimum pension age at a weekly rate equal to the member’s guaranteed minimum (if any); and

(b) a pension and lump sum from the date the member reaches normal benefit age in respect of the member’s section 5(2B) rights.

(8) On the death of a member to whom paragraph (6) applies, no benefit will be payable except for a widow’s, widower’s or surviving civil partner’s pension equal to the aggregate of—

(a) that described in paragraph (3) or, as the case may be, paragraph (4); and

(b) half the member’s pension in respect of section 5(2B) rights.

*Late retirement*

**44.** If a member’s pension is postponed for more than 7 weeks after guaranteed minimum pension age, or is reduced or suspended after it becomes payable, the member’s guaranteed minimum pension, as increased under section 105 of the Pension Schemes (Northern Ireland) Act 1993 (annual increases of guaranteed minimum pensions), will be increased by 1/7th per cent for each complete 7 days of postponement.

*Early leavers*

**45.—**(1) Subject to paragraph (2), if a member leaves contracted-out employment under this Section of the scheme before guaranteed minimum pension age, the member’s guaranteed minimum pension at the date of leaving will be increased, when the member reaches State pension age or dies (if earlier), by the appropriate percentage specified in relation to each relevant year in the last order under Article 130 of the Social Security Administration (Northern Ireland) Act 1992(revaluation of earnings factors) to come into force before the tax year in which the member reaches guaranteed minimum pension age or dies (if earlier).

(2) If a guaranteed minimum pension is to be transferred to another scheme, or bought out by a buy-out policy, under which early leavers’ guaranteed minimum pensions are increased by a method other than that described in paragraph (1), the Department may adopt that other method for the guaranteed minimum pension in question.

(3) If a member returns to contracted-out employment under this Section of the scheme within 6 months after leaving, the two periods of contracted-out employment will be treated as continuous, unless the first period is covered by -

(a) a state scheme premium under Chapter III of Part III of the Pension Schemes (Northern Ireland) Act 1993, or

(b) a transfer to another occupational pension scheme or to a personal pension scheme, or

(c) any guaranteed minimum pensions being bought out under a buy-out policy.

*Guaranteed minimum pensions transferred to* *this Section of* *the scheme*

**46.—**(1) Where a guaranteed minimum pension has been transferred to this Section of the Scheme and the member subsequently leaves contracted-out employment under this Section of the scheme, the guaranteed minimum pension transferred to this Section of the scheme will be increased for each complete tax year after the date on which the member left contracted-out employment under this Section of the scheme in which the transferred guaranteed minimum pension accrued, until the member reaches guaranteed minimum pension age (if earlier).

(2) If the transfer is from another occupational pension scheme, the guaranteed minimum pension will be increased by the appropriate percentage specified in relation to each relevant year in the last order under section 130 of the Social Security Administration (Northern Ireland) Act 1992 (revaluation of earnings factors) to come into force before the tax year in which the member reaches guaranteed minimum pension age (if earlier).

(3) If the transfer is from a buy-out policy, the guaranteed minimum pension will be increased by the same method as was in use under the policy or, if the Department so determines, by the appropriate percentage specified in relation to each relevant year in the last order under section 130 of the Social Security Administration (Northern Ireland) Act 1992 (revaluation of earnings factors) to come into force before the tax year in which the member reaches guaranteed minimum pension age or dies (if earlier).

*Protected rights transferred to* *this Section of* *the scheme*

**47.—**(1) Where, prior to 6th April 2012, protected rights have been transferred to this Section of the scheme from another occupational pension scheme or a personal pension scheme, the protected rights will be used to provide guaranteed minimum pensions equal to those which the member and the member’s spouse or civil partner would have been treated as entitled under the transferring scheme had the transfer not been made.

(2) Any guaranteed minimum pensions to which a member and his spouse or civil partner are entitled by virtue of paragraph (1) will be revalued as described in regulation 46(2).

*State scheme premiums*

**48.—**(1) The Department may discharge its liability to provide any guaranteed minimum pension by paying a state scheme premium under Chapter III of Part III of the Pension Schemes (Northern Ireland) Act 1993.

(2) Where a member, or a member’s widow, widower or surviving civil partner is entitled to a pension under this Section of the scheme in respect of a period for which a contributions equivalent premium has been paid under section 51(2) of the Pension Schemes (Northern Ireland) Act 1993 the pension will be reduced by the amount of the guaranteed minimum pension that would have been payable under this Section of the scheme to the member, widow, widower or surviving civil partner as the case may be, if the contributions equivalent premium had not been paid.

**PART V**

**EARLY LEAVERS**

*Preserved pension*

**49.—**(1) Subject to paragraphs (3) and (4), a member who leaves superannuable employment before age 60 without becoming entitled to a pension under any of regulations 12 to 16 shall be entitled to receive a pension and retirement lump sum under this regulation from age 60 if –

(a) the member leaves with at least 2 years’ qualifying service, or

(b) a transfer payment has been made to this Section of the scheme in respect of the member’s rights under a personal pension scheme.

(2) The pension under this regulation will be calculated—

(a) where it becomes payable by virtue of paragraph (3)(d), in accordance with paragraphs (2) to (4) of regulation 16 (Early retirement pension (with actuarial reduction)), as if it were a pension under that regulation; and

(b) in any other case, as described in regulation 12 (Normal retirement pension) as if it were a pension under that regulation;

and the retirement lump sum will be calculated as described in regulation 17 (Lump sum on retirement).

(3) The member shall be entitled to receive the pension and retirement lump sum before age 60 if -

(a) the member is in HPSS employment and the Department is satisfied that the member is suffering from mental or physical infirmity that makes him permanently incapable of efficiently discharging the duties of that employment:

(b) the Department is satisfied that the member is suffering from mental or physical infirmity that makes him permanently incapable of engaging in regular employment of like duration; or

(c) some other pension becomes payable to the member under any of the regulations 12 to 16.

(d) the member—

(i) left superannuable employment on or after 30th June 2000,

(ii) has reached the normal minimum pension age or, where relevant, protected pension age and

(iii) has applied to the Department for payment of the pension and retirement lump sum under this regulation.

(4) Except in a case to which paragraph (4A) applies—

(a) if the member is in HSC employment at the relevant time (whether with the same or another employing authority), the pension and lump sum on retirement will not become payable until the member leaves HSC employment or, if sooner—

(i) when the member attains the age of 70, if he attains that age on or before 31st March

2008; or

(ii) when the member attains the age of 75, if he attains the age of 70 on or after 1st April

2008;

(b) the relevant time—

(i) in the case of a member to whom sub-paragraph (d) of paragraph (3) applies, is when

he makes the application referred to in head (iii) of that sub-paragraph; or

(ii) in any other case, when the member attains the age of 60.

(4A) Paragraph (4) may not apply where the HPSS employment which the member is in when he reaches age 60 is employment into which he has been transferred as a result of an undertaking to the employer.

(4B) Where the member receives a pension under paragraph (1) while being in the new employment to which paragraph (4A) applies –

(a) his benefits in respect of any superannuable service in that new employment shall be calculated without any regard to any superannuable service in any earlier employment;

(b) for the purposes of regulation 4 (Meaning of “superannuable service”) and regulation 10(3) and (4) (Contributions by members), his service in the earlier employment and in the new employment shall be aggregated.

(5) Subject to paragraph (6), where on or after the coming into operation of these Regulations a member becomes entitled to a pension under paragraph (3)(a) or (b), the Department may discharge its liability for that pension by the payment of a lump sum of an amount consistent with—

(a) the contracting-out and preservation requirements of the 1993 Act; and

(b) the lump sum rule.

(6) A lump sum payment under paragraph (5) may be made only if the Department is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member and the member was in superannuable employment on or after the coming into operation of these Regulations.

(7) For the purpose of paragraph (6), the Department may require whatever medical evidence it considers necessary.

(8) The amount of the lump sum payable under paragraph (5) will be equal to 5 times the difference between the yearly rate of the member’s pension (calculated in accordance with this regulation) and the yearly rate of the member’s guaranteed minimum pension or, if lower, twice the member’s final year’s superannuable pay (less the member’s lump sum payable on retirement payable under this regulation) and shall be payable in addition to the lump sum on retirement payable under this regulation, which shall not be subject to any reduction such as is described in regulation 17(3).

(9) For the purposes of determining whether a member is permanently incapable of efficiently discharging the duties of the member’s employment under paragraph (3)(a), the Department shall have regard to the factors in paragraph (11) (no one of which shall be decisive) and disregard the member’s personal preferences for or against engaging in that employment.

(10) For the purposes of determining whether a member is permanently incapable of regular employment under paragraph (3)(b), the Department shall have regard to the factors in paragraph (12) (no one of which shall be decisive) and disregard the factors in paragraph (13).

(11) The factors to be taken into account for paragraph (9) are—

(a) whether the member has received appropriate medical treatment in respect of the incapacity;

(b) the member’s—

(i) mental capacity; and

(ii) physical capacity;

(c) such type and period of rehabilitation which it would be reasonable for the member to

undergo in respect of the member’s incapacity, irrespective of whether such rehabilitation

is undergone; and

(d) any other matter which the Department considers appropriate.

(12) The factors to be taken into account for paragraph (10) are—

(a) whether the member has received appropriate medical treatment in respect of the incapacity; and

(b) such reasonable employment as the member would be capable of engaging in if due regard

is given to the member’s—

(i) mental capacity;

(ii) physical capacity;

(iii) previous training; and

(iv) previous practical, professional and vocational experience,

irrespective of whether or not such employment is actually available to the member;

(c) such type and period of rehabilitation which it would be reasonable for the member to undergo in respect of the member’s incapacity (irrespective of whether such rehabilitation is undergone) having regard to the member’s—

(i) mental capacity, and

(ii) physical capacity;

(d) such type and period of training which it would be reasonable for the member to undergo

in respect of the member’s incapacity (irrespective of whether such training is undergone)

having regard to the member’s—

(i) mental capacity,

(ii) physical capacity,

(iii) previous training, and

(iv) previous practical, professional and vocational experience, and

(e) any other matter which the Department considers appropriate.

(13) The factors to be disregarded for paragraph (10) are—

(a) the member’s personal preference for or against engaging in any particular employment; and

(b) the geographical location of the member.

(14) For the purpose of this regulation—

“appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the incapacity, but does not include any treatment that the Department considers—

(a) that it would be reasonable for the member to refuse;

(b) would provide no benefit to restoring the member’s capacity for—

(i) efficiently discharging the duties of the member’s employment under paragraph

(3)(a), or

(ii) regular employment of like duration under paragraph (3)(b),

before the member reaches normal benefit age; and

(c) that, through no fault on the part of the member, it is not possible for the member to

receive before the member reaches normal benefit age;

“HSC employment” does not include employment with an employing authority in respect of which the member is eligible to join—

(a) the 2008 Section; or

(b) the 2015 Scheme and that member’s service in this Section does not qualify as, or has ceased to be, pensionable service to which paragraphs 1(2)(i) and (ii) or paragraphs 2(i) and (ii) of Schedule 7 (final salary link) to the 2014 Act applies.

“permanently” means the period until normal benefit age; and

“regular employment of like duration” means—

(a) in the case of a member who was a non-GP provider, such employment as the Department considers would involve a similar level of engagement to the member’s superannuable service as a non-GP provider immediately before that service ceased; and

(b) in all other cases, where prior to leaving employment that was superannuable the

member was employed—

(i) on a whole-time basis, regular employment on a whole-time basis;

(ii) on a part-time basis, regular employment on a part-time basis,

regard being had to the number of hours, half days and sessions the member worked in that superannuable employment.

*Refund of contributions*

**50.—**(1) A member who leaves superannuable employment without becoming entitled to a pension under regulations 12 to 16 (Benefits) or a preserved pension under regulation 49 (Preserved pension) shall be entitled to receive a lump sum refund of his contributions, less tax at—

(a) 20 per cent (or at such other rate as applies from time to time) in respect of so much of the lump sum as does not exceed £10,800 (or such other amount as applies from time to time); and

(b) 40 per cent (or at such other rate as applies from time to time) in respect of so much (if any) of it as exceeds that limit.

(2) A member who wishes to take a refund of contributions must apply in writing to the Department.

(2A) An application in writing referred to in paragraph (2) may be—

(a) made or given by means of an electronic communication that is approved by the Department for that purpose;

(b) given to the Department by a person other than the member.

(3) If the member’s employment was contracted-out by reference to this Section of the scheme, the member (and the member’s spouse or civil partner, if any) will remain entitled to a guaranteed minimum pension and section 5(2B) rights under this Section of the scheme, unless the Department discharges its liability in respect of that entitlement by paying a contributions equivalent premium under section 51(2) of the 1993 Act.

(4) If a contributions equivalent premium is paid, the member’s refund of contributions will be reduced by the amount recoverable under section 57 of the Pensions Schemes (Northern Ireland) Act 1993 (deduction of contributions equivalent premium from refund of contributions).

(5) If a contributions equivalent premium is not paid, the member’s refund of contributions will be reduced by the amount that the Department estimates would have been recoverable under section 57 of the Pensions Schemes (Northern Ireland) Act 1993 if the premium had been paid.

(6) A member shall not be entitled to a refund of contributions for any period of service in respect of which the Department has received a transfer payment in respect of his rights under a personal pension scheme.

(7) Where a refund of contributions is made, the Department shall be discharged from any obligation to provide benefits under this Section of the scheme except to any extent provided for under paragraph (3).

*Payment of interest with refund of contributions*

**51.—**(1) Compound interest will be added to a refund of contributions under regulation 50, except where the employment was terminated by reason of misconduct or inefficiency or at the member’s request.

(2) Subject to paragraph (3), where compound interest is added to a refund of contributions, it will be calculated at the rate of 2.5 per cent a year, for the period starting on the 1st April after the contributions were paid and ending on the day the member leaves superannuable employment.

(3) In the case of any contributions paid under another enactment or scheme and included in a transfer payment to this Section of the scheme, interest for the period before the transfer payment was accepted will be calculated as described in the enactment or scheme from which the transfer payment was received.

*Early leavers returning to superannuable employment*

**52.—**(1) This regulation applies to any member who leaves superannuable employment without becoming entitled to a pension under any of regulations 12 to 16 and later returns to superannuable employment before becoming entitled to receive a pension under this Section of the scheme.

(2) If the member leaves superannuable employment with a preserved pension under regulation 49 and then returns to superannuable employment within 12 months after leaving, the member will cease to be entitled to the preserved pension under regulation 49 and the member’s superannuable service before and after the break in superannuable employment will be treated as continuous.

(3) Subject to paragraph (5), if the member leaves superannuable employment with a preserved pension under regulation 49 and then returns to superannuable employment 12 months or more after leaving-

(a) the member’s superannuable service before and after the break in superannuable employment will be treated separately unless, when the member becomes entitled to receive a pension or the member dies (whichever occurs first), it would be more favourable to the member, or the member’s spouse or civil partner, to treat the member’s superannuable service before and after the break, and all such other breaks (if any), as continuous: and

(b) if the member becomes entitled to receive a pension under regulation 13 or 13A, the superannuable service upon which that pension is based will be increased as described in paragraphs (4) to (6) of that regulation if the member’s superannuable service before and after the break in superannuable employment is treated as continuous, but there will be no increase to any of the member’s superannuable service if the member’s superannuable service before and after the break is treated separately.

(4) Subject to paragraph (5), if the member leaves superannuable employment without becoming entitled to a preserved pension and then returns to superannuable employment within 12 months after leaving, the member’s superannuable service before and after the break in superannuable employment will be treated as continuous.

(5) Where paragraph (4) applies and the member has received a refund of contributions under regulation 50 in respect of superannuable service before the break in superannuable employment, the member’s superannuable service before and after the break will be treated as continuous only if, within

6 months after rejoining this Section of the scheme, the member pays to the Department an amount equal to the refund of contributions (including any interest added under regulation 51).

(6) If a member leaves superannuable employment with a preserved pension and, after returning, again leaves superannuable employment without becoming entitled to a pension under any of regulations 12 to 16, the member will be entitled to a preserved pension under regulation 49 in respect of the period after the break whether or not he has 2 years’ qualifying service in respect of that period.

(7) A member whose superannuable service before and after a break in superannuable employment is treated as continuous and who, before the break, was paying for additional benefits by regular additional contributions under regulation 72 (Paying for additional service or unreduced retirement lump sum by regular additional contributions) must continue to pay for those additional benefits after the break.

(7A) Practice staff who were employed by a registered medical practitioner on both 31st August 1997 and 1st September 1997 and who -

(a) had previously been compulsorily transferred from a body referred to in sub-paragraph (a), (b), (c), (d) or (e) of the definition of "employing authority" in regulation 2, to employment with a registered medical practitioner referred to in sub-paragraph (*f*) of that definition; and

(b) were at time of the transfer paying for additional benefits by regular additional contributions under regulation 72; and

(c) rejoined the Health and Personal Social Services Superannuation Scheme with effect from 1st September 1997;

may resume payment of those additional contributions at the percentage rate, which applied prior to the transfer above, of current superannuable pay provided that the payments resume with effect from 1st September 1997.

(8) If a member’s superannuable employment before and after a break in superannuable employment (the “pre-break period” and the “post-break period”) is treated separately, the member’s benefits in respect of such employment in the pre-break period and the post-break period shall be calculated–

(a) separately; and

(b) by reference to –

(i) the member’s superannuable service comprising that pre-break period or post-break

period as the case may be; and

(ii) his final year’s superannuable pay in respect of that particular period,

as if that period had been his only period of superannuable employment.

**PART VI**

**TRANSFERS AND BUY-OUTS**

*Member’s right to transfer or buy-out*

**53.—**(1) A member who leaves superannuable employment with a preserved pension has the right to require the Department to transfer or buy-out his rights under this Section of the scheme as described in this regulation.

(2) Subject to the following provisions of this regulation, the member may require the Department to use the cash equivalent of his rights under this Section of the scheme—

(za) a member may require the cash equivalent to be used to acquire rights in one or more of the ways permitted under section 97AE of the 1993 Act;

(a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member; or

(b) to acquire rights under—

(i) another occupational pension scheme; or

(ii) a personal pension scheme,

that satisfies the requirements of Chapter IV of Part IV of the 1993 Act; or

(c) to acquire rights under an arrangement that is a qualifying recognised overseas pension scheme for the purposes of section 169(2) of the 2004 Act; or

(d) in any combination of the ways described in sub-paragraphs (a), (b) and (c).

(3) The member must exercise his right to in relation to each and every portion of the cash equivalent unless paragraph (4) applies.

(4) The benefits attributable to—

(a) the member’s accrued rights to a guaranteed minimum pension; or

(b) the member’s accrued rights attributable to service in contracted-out employment on or after 6th April 1997,

may be excluded from the cash equivalent transfer value payment if section 92(2) of the 1993 Act applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member’s other rights).

(5) A member who requires the cash equivalent to be used to acquire rights under another pension scheme in accordance with paragraph (2) may exercise the right—

(a) at any time before reaching age 60; or

(b) at a later time if the member exercises the right to require a transfer on the transfer of the member’s employment to a new employer as a result of a transfer of an undertaking to that employer.

(6) A member may require the Department to use the cash equivalent of the member’s rights under this Section of the scheme to purchase one or more buy-out policies or to acquire rights under a personal pension scheme only—

(a) if the member leaves superannuable employment on or after 1st January 1986; and

(b) if those rights are to be transferred to a personal pension scheme, in relation to any period of service of 2 years or more falling before 6th April 1988, only if a period of not less than one month has elapsed between the date the member left HSC employment and the date of commencement of any further HSC employment.

(7) If a member—

(a) leaves superannuable employment by opting-out; and

(b) on so doing becomes entitled to a preserved pension under regulation 49; an

(c) has at least 2 years’ service before 6th April 1988,

the member’s right to require a transfer or buy-out will be limited to the cash equivalent of the part of the member’s rights that is attributable to service after 5th April 1988 and the member will acquire a right to the cash equivalent of the member’s remaining rights only if the member actually leaves HSC employment before reaching age 60.

(8) A member who leaves superannuable employment before reaching age 60, without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 will be treated, for the purposes of this regulation and regulations 54 to 57, as if the member left superannuable employment with a preserved pension, except that—

(a) a member who requires the cash equivalent to be used to buy one or more buy-out policies must exercise the right to buy-out within 12 months after leaving superannuable employment; and

(b) a member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme, a personal pension scheme or a qualifying recognised overseas pension scheme must join that other scheme within 12 months after leaving superannuable employment and exercise the right to transfer within 12 months after joining that other scheme.

*Exercising a right* to *transfer or buy-out*

**54.—**(1) A member who wishes to exercise the member’s right to a transfer or a buy out must apply in writing to the Department for a statement of the amount of the cash equivalent of the member’s accrued benefits under this Section of the Scheme at the guarantee date (a “statement of entitlement”).

(2) In these Regulations, “the guarantee date” means any date that—

(a) falls within the required period; and

(b) is chosen by the Department; and

(c) is specified in the statement of entitlement; and

(d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(3) In counting the period of 10 days referred to in paragraph (2)(d), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(4) In paragraph (2) “the required period” means—

(a) the period of 3 months beginning with the date of the member’s application for a statement of entitlement; or

(b) such longer period beginning with that date (but not exceeding six months) as may reasonably be required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(5) The member may withdraw the application for a statement of entitlement by notice in writing at any time before the statement is provided.

*Amount of member’s cash equivalent*

**55.—**(1) Subject to the following provisions of this regulation, the member’s guaranteed cash equivalent will be equal to the capitalised value of all the member’s accrued rights to benefits under this Section of the scheme and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.

(1A) The Department shall—

(a) take advice from the Scheme actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent; and

(b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996.

(2) Except in the case of a transfer payment accepted under regulation 62A, a member’s cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 60(4), plus the amount of the member’s contributions to this Section of the scheme.

(3) If a member’s cash equivalent is used to acquire rights under another occupational pension scheme, any part of the cash equivalent that relates to service before 6th September 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(4) If the transfer value payment is made under the public sector transfer arrangements, the amount of the transfer value payment is calculated—

(a) in accordance with those arrangements rather than paragraphs (2) and (3); and

(b) by reference to the guidance and tables provided by the Scheme Actuary for the purposes of this paragraph that are in use on the date used for the calculation.

(5) In any case where the Department has directed, under regulation 93, that part of a member’s benefits under these Regulations shall be forfeited, the cash equivalent payable in respect of that member shall be reduced by the capitalised value of the forfeited part of those benefits.

*Applications for transfer value payments: General*

**56.—**(1) A member who has applied for and received a statement of entitlement under regulation 54 may apply in writing to the Department for a transfer value payment to be made.

(2) On making such an application a member becomes entitled to a payment of an amount equal, or amounts equal in aggregate, to the amount specified in the statement of entitlement (or such other amount as may be payable by virtue of regulation 57(2)).

(3) In these Regulations such a payment is referred to as “the guaranteed cash equivalent transfer value payment”.

(4) The application must specify the pension scheme or other arrangement to which the payment or payments should be applied.

(5) The application must meet such other conditions as the Department may require.

(6) An application under this regulation may be withdrawn by notice in writing to the Department, unless an agreement for the application of the whole or part of the guaranteed cash equivalent transfer value payment has been entered into with a third party before the notice is given.

*Applications for transfer value payments: time limits*

**57**.—(1) Subject to paragraph (5), an application under regulation 56 must be made before the end of the period of 3 months beginning with the guarantee date, and the payment must be made no later than—

(a) 6 months after that date; or

(b) if it is earlier, the date on which the member reaches 60.

(2) If the payment is made later than 6 months after the guarantee date, the amount of the payment to which the member is entitled must be increased by—

(a) the amount by which the amount specified in the statement of entitlement falls short of the amount it would have been if the guarantee date had been the date on which the payment is made; or

(b) if it is greater and there was no reasonable excuse for the delay in payment, interest on the amount specified in the statement of entitlement, calculated on a daily basis over the period from the guarantee date to the date when the payment is made at an annual rate of 1 per cent above the Bank of England base rate.

(3) In this regulation “Bank of England base rate” means—

(a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, and

(b) if an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

(4) Paragraph (5) applies if—

(a) disciplinary or court proceedings against the member are begun within 12 months after the member leaves the employment which qualified the member to belong to this Section of the Scheme; and

(b) it appears to the Department that the proceedings may lead to all or part of the member’s benefits being forfeited under regulation 93.

(5) The Department may defer doing what is needed to carry out what the member requires until the end of the period of 3 months beginning with the date on which those proceedings (including any proceedings on appeal) are concluded.

(6) In any case where a direction is given under regulation 93 for the forfeiture of a member’s benefits, this regulation applies as if the amount specified in the statement of entitlement were reduced by an amount equal to the value of the benefits forfeited, as determined by the Scheme Actuary.

(7) Subject to paragraph (8), if a transfer value payment is made in respect of a member’s rights under this Section of the Scheme, those rights are extinguished.

(8) If the member’s rights described in regulation 53(4) have been excluded from the transfer payment, the Department will continue to be liable to provide the benefits described in regulation 43(7).

*Special terms for transfer out (bulk transfers etc)*

**58.—**(1) If one or more members (the transferring members)—

(a) leave superannuable employment;

(b) join another occupational scheme; and

(c) exercise a right to transfer to that scheme under regulation 54,

the Department may, after taking advice from the Scheme Actuary, make a single transfer

payment to that scheme in respect of transferring members.

(2) The Department must calculate the amount of any transfer payment paid under this regulation after taking advice from the Scheme Actuary.

*Member’s right to transfer a preserved pension to the 2008 Section*

**59.—**(1) If a member meets the conditions referred to in paragraph (3), and subject to the following provisions of this regulation, a member may require the Department to use the cash equivalent of the member’s rights under this Section of the scheme referred to in these Regulations to acquire rights in the 2008 scheme.

(2) A member’s right to require the Department to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.

(3) The conditions referred to in paragraph (1) are that the member—

(a) is entitled to a deferred benefit under regulation 49;

(b) may not join this Section of the scheme in respect of any further HSC employment by virtue of regulation 7(1)(k) or 7(l)(m) or (n); and

(c) becomes an active member of the 2008 Section on or before 31st March 2015 and before attaining the age of 60.

(4) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(5) In this regulation “the guarantee date” means any date that—

(a) falls within the required period;

(b) is chosen by the Department;

(c) is specified in the statement of entitlement; and

(d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(6) In counting the period of 10 days referred to in paragraph (5)(d), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(7) In paragraph (5), “the required period” means—

(a) the period of three months beginning with the date that the Department receives notification from the member’s employing authority that the member has joined the 2008 Section; or

(b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(8) Subject to paragraphs (9) to (11), the member’s guaranteed cash equivalent shall be equal to the capitalised value of all of the member’s rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.

(9) The Department shall—

(a) take advice from the Scheme actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent; and

(b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996.

(10) Except in the case of a transfer payment accepted under regulation 62A (Transfers in respect of members to whom regulation 9A applies who elect to join or re-join this Section of the scheme), a member’s cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 60(4) (which deals with the crediting of additional service upon transfer), plus the amount of the member’s contributions to this Section of the scheme.

(11) Any part of the cash equivalent that relates to the service before 6th September 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(12) A member who has received a statement of entitlement in accordance with paragraph (4) may apply to the Department for the cash equivalent of the member’s rights under this Section of the scheme to be used to acquire rights under the 2008 Section.

(13) An application under this regulation must be made in respect of each and every portion of the cash equivalent and shall be—

(a) made in writing on the form provided for this purpose by the Department;

(b) made before the end of the period of three months beginning with the guarantee date;

(c) irrevocable.

(14) On the making of such an application—

(a) a member becomes entitled to be credited with a period of pensionable service or an equivalent increase to the member’s pensionable earnings in the 2008 Section in respect of the cash equivalent value of the member’s benefits under this Section of the scheme calculated in accordance with whichever of regulations 108A or 235A of the 2008 Section apply to the member; and

(b) the member’s rights under this Section of the scheme are extinguished on the day that the member is credited with a period of pensionable service or pensionable earnings in accordance with regulation 108A or 235A (as the case may be) of the 2008 Section.

*Member’s right to transfer a preserved pension to the 2015 Scheme*

**59A.**—(1) A member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Department to use the cash equivalent of the member’s rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

(a) is entitled to a deferred benefit under regulation 49,

(b) has not been a member of the 2008 Section, and

(c) became an active member of the 2015 Scheme before attaining the age of 60.

(3) Condition B is that the member has a break in superannuable employment for any one period of more than five years beginning with the day immediately following the cessation of the superannuable employment in respect of which that person is entitled to the pension referred to in paragraph (2)(a) and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(c).

(4) Condition C is that the member—

(a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and

(b) has not previously had a break in superannuable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in superannuable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2014 Act is to be disregarded.

(6) The Department shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(7) In this regulation “the guarantee date” means any date that falls within the required period and is—

(a) chosen by the Department,

(b) specified in the statement of entitlement, and

(c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(9) In paragraph (7), “the required period” means—

(a) the period of three months beginning with the date that the Department receives notification from the member’s employing authority that the member has joined the 2015 Scheme; or

(b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Department, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member’s guaranteed cash equivalent shall be equal to the capitalised value of all of the member’s rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971.

(11) The Department shall—

(a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, and

(a) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996.

(12) Except in the case of a transfer payment accepted under regulation 62A (Transfers in respect of members to whom regulation 9A applies who elect to join or re-join the scheme), a member’s cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 60(4), plus the amount of the member’s contributions to this Section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Department for the cash equivalent of the member’s rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

(a) to be made in writing on the form provided for this purpose by the Department;

(b) to be made before the end of the period of three months beginning with the guarantee date;

(c) irrevocable.

(15) On the making of such an application—

(a) a member becomes entitled to be credited with an increase to the member’s pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member’s benefits under this Section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and

(b) the member’s rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member’s pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.

(16) A member’s right to require the Department to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.

**TRANSFERS FROM OTHER PENSION ARRANGEMENTS**

*Member’s right to transfer accrued rights to benefits to this Section of* *the scheme*

**60.—**(1) Within 12 months after joining this Section of the scheme, a member in superannuable employment may, in writing, request the Department to accept a transfer payment in respect of the member’s rights under another occupational pension scheme, a personal pension scheme, or a buy-out policy but not in respect of rights under a free-standing AVC scheme—

(a) established on, or after, the 6th April 2006 as a registered free-standing AVC scheme for the purposes of the 2004 Act; or

(b) which on 6th April 2006 became a registered free-standing AVC scheme for the purposes of that Act and which immediately before that date was approved by the Commissioners for Her Majesty’s Revenue and Customs by virtue of section 591(2)(h) of the Income and Corporation Taxes Act 1988 (free-standing AVC schemes).

(2) The Department shall not accept the transfer payment unless-

(a) the transferring scheme or insurance company provides all the information about the member’s rights that the Department reasonably requires; and

(b) the amount of the transfer payment that relates to rights accrued in the transferring scheme before 6th April 1997 is at least equal to the yearly rate of the guaranteed minimum pension for which the Department would be liable as a result of accepting the transfer payment, multiplied by the factor appropriate to the member’s age, as set out in the following table.

|  |  |
| --- | --- |
| *Member’s age* | *Appropriate factor* |
| 29 or under | 8 |
| 30 – 39 | 9 |
| 40 – 49 | 10 |
| 50 or over | 12 |

(3) Except in the case of a person to whom regulation 9A applies the Department shall not accept the transfer payment if-

(a) except where paragraph (3A) applies the member joins this Section of the scheme, or requests the Department to accept the transfer payment, after reaching age 60; or

(b) the request is made following a notice given under regulation 9(5) (opted-out person rejoining this Section of the scheme) in circumstances where the member had a previous opportunity to request the Department to accept a transfer payment in respect of those same rights but did not take that opportunity.

(3A) This paragraph applies where the member’s employment is transferred to a new employer on the transfer of his employment to a new employer as the result of a transfer of an undertaking to that employer.

(4) If the Department accepts the transfer payment, the member will be credited with an additional period of superannuable services as described in whichever of regulations 61 (Transfers made under the Public Sector Transfer Arrangements) 62 (transfers that are not made under the Public Sector Transfer Arrangements) and 62A (transfers in respect of members to whom regulation 9A applies who elect to join or rejoin this Section of the scheme) is applicable.

(5) For the purposes of calculating a member’s final year’s superannuable pay any period of superannuable service with which a member is credited in respect of a transfer payment will be treated as superannuable employment and the superannuable pay by reference to which that service is calculated will be treated as superannuable pay received in respect of that employment.

*Transfers made under the Public Sector Transfer Arrangements*

**61.—**(1) Subject to paragraph (2), if the transfer is from another occupational pension scheme that participates in the Public Sector Transfer Arrangements, the additional period of superannuable service to be credited to the member in respect of the transfer payment will be equal to the period that, if used to calculate a cash equivalent under regulation 55 (Amount of member’s cash equivalent), would produce an amount equal to the amount of the transfer payment.

(2) Paragraph (1) applies only if the transfer payment-

(a) represents all the member’s benefits under the transferring scheme; and

(b) is calculated in a manner that is consistent with the actuarial methods and assumptions used by the Department to calculate cash equivalents under regulation 55 in the case of transfers under the Public Sector Transfer Arrangements.

(3) For the purpose of calculating the additional period of service under paragraph (1), regard shall be had to the member’s age and martial status, and to the yearly rate of pay and any other factor notified to the Department by the trustees or managers of the transferring scheme as having been taken into account for the purpose of calculating the amount of the transfer payment.

*Transfers that are not made under the Public Sector Transfer Arrangements*

**62.—**(1) Except where regulation 61 (Transfers made under the Public Sector Transfer Arrangements) applies, the additional period of service to be credited to the member in respect of the transfer payment will be calculated in a manner that is consistent with the actuarial methods and assumptions used by the Department to calculate cash equivalents under regulation 55 (Amount of member’s cash equivalent), in the case of transfers that are not made under the Public Sector Transfer Arrangements.

(2) When calculating the additional period of superannuable service under paragraph (1), due allowance shall be made for the expected increase in the superannuable pay of all members of the same age as the member in respect of whom the transfer payment is being accepted between the date on which that member joins this Section of the scheme (or the date on which the transfer payment is accepted, if this is more than 12 months later) and the date on which the member will reach age 60.

*Transfers in respect of members to whom regulation 9A applies who elect to join or rejoin this Section of* *the scheme*

**62A**.—(1) In the case of a member to whom regulation 9A applies, this regulation shall apply for the purpose of calculating the amount of the transfer payment by reference to which an additional period of superannuable service may be credited by the Department to that member.  
  
    (2)  Subject to paragraphs (3) and (4) the transfer payment in respect of which an additional period of superannuable service may be credited by the Department to a member referred to in paragraph (1) shall be calculated in a manner that is consistent with the actuarial methods and assumptions used by the Department to calculate cash equivalents under regulation 55 (amount of member's cash equivalent) in the case of transfers that are not made under the Public Sector Transfer Arrangements and shall be of an amount equal to the total amount of:—

(i)  an amount which would enable the member to be credited by this Section of the scheme with an additional period of superannuable service as the Department may approve in respect of the period during which he made contributions to a personal pension scheme ("the relevant scheme");

(ii)  the amount of the cash equivalent, if any, which the member transferred to the relevant scheme by exercising a right under regulation 54 (Exercising a right to transfer or buy-out) ("the transferred rights"); and

(iii) an amount, to be determined from time to time by the Scheme actuary, which represents the income which would have been received on the amount referred to in sub-paragraph (ii) had that amount been invested during the period commencing at the end of the month in which it was paid by this Section of the scheme to the relevant scheme and ending at the end of the month in which the transfer payment was paid to this Section of the scheme by the relevant scheme.

(3)  The amount, if any, payable by virtue of paragraphs (2)(ii) and (iii) shall be at least equal to the amount of the cash equivalent transfer value which would be payable by this Section of the scheme in respect of the period of transferred-out service which the transferred rights represent if this Section of the scheme were to pay a cash equivalent transfer value in respect of that service immediately after the time at which the transfer payment is paid to this Section of the scheme by the relevant scheme.  
  
 (4)  In the case of a member to whom regulation 9A applies who has been credited with an additional period of superannuable service calculated as specified in regulation 62 (Transfers that are not made under the Public Sector Transfer Arrangements) the Department may adjust the amount of the transfer referred to in paragraph (2) on account of the payment by reference to which that superannuable service was credited.  
  
 (5)  In this regulation:—

 "personal pension scheme" has the same meaning as in regulation 9A(4);

 "transfer payment" means the payment payable to this Section of the scheme by the relevant scheme in respect of a member to whom regulation 9A applies who elects to join or rejoin this Section of the scheme; and

 "transferred-out service" means the period of superannuable service which the member transferred-out of this Section of the scheme by exercising a right under regulation 54 (Exercising a right to transfer or buy-out).

*Special terms for transfers in (bulk transfers etc)*

**63.—**(1) This regulation applies where one or more members of another occupational pension scheme (“the transferring members”)–

(a) cease to be in superannuable employment under that scheme,

(b) join this Section of the Scheme, and

(c) consent in writing to a transfer payment being accepted in respect of them and superannuable service being credited to them as mentioned in paragraphs (2) and (3).

(2) The Department may, after taking advice from the Scheme Actuary, accept a single transfer payment in respect of the transferring members.

(3) Where such a transfer payment is accepted, each of the transferring members must be credited with such additional period of superannuable service as the Department determines to be appropriate after taking advice from the Scheme Actuary.

*Waiver of transfer payments*

**64.** ***revoked***

**PART VII**

**MEMBERS ABSENT FROM WORK**

*Absence because of illness or injury or certain types of leave*

**65.—**(1) This regulation applies to members who are absent from work because of illness or injury or who are on maternity leave, adoption leave paternity leave or parental leave.

(2) A period of absence to which this regulation applies will count as superannuable service for so long as the member contributes to this Section of the scheme.

(3) If the earnings used to calculate a member’s superannuable pay are reduced during a period of absence to which this regulation applies-

(a) for the purpose of calculating the member’s contributions to this Section of the scheme (other than by way of payment for additional service or unreduced retirement lump sum), superannuable pay for the period of absence will be calculated on the basis of the member’s reduced earnings; and

(b) for all other purposes, the member’s superannuable pay for the period of absence will be calculated as if no reduction were being made.

(4) If the earnings used to calculate a member’s superannuable pay cease during a period of absence to which this regulation applies-

(a) subject to sub-paragraph (b), the member will be treated as having left superannuable employment except that no refund of contributions or other benefit will be payable until the member actually leaves superannuable employment;

(b) subject to paragraph (4A) in the case of a member on maternity leave, adoption leave, paternity leave or parental leave, who paid contributions on the basis of reduced earnings in accordance with sub-paragraph 3(a) contributions shall continue to be payable at that rate.

(4A) For the purposes of paragraph (4)(b), the rate of contributions payable shall be the

rate that would have been payable on the basis of reduced earnings in accordance with paragraph (3)(a) had the member’s reduced earnings excluded any earnings for a day during which the member returned to work for the purposes of keeping in touch with the workplace.

(5) If a member fails to pay any contributions which are required to be paid to this Section of the scheme in respect of a period of absence to which this regulation applies, the member will be treated as having left superannuable employment except that no refund of contributions shall be payable unless the member actually leaves superannuable employment.

(6) If a member to whom this regulation applies leaves superannuable employment or, by virtue of sub-paragraph (4)(a) or paragraph (5), is treated as having left superannuable employment, without becoming entitled to a preserved pension, then if the member later returns to superannuable employment regulation 52(4) (Early leavers returning to superannuable employment) will apply as if the reference to

12 months was a reference to 3 years.

(7) The benefits payable on the death of a member whose earnings ceased during a period of absence to which this regulation applies will be calculated as if the member had died in superannuable employment on the day before his earnings ceased.

(8) For the purposes of this regulation, “maternity leave” includes any day during which the member returns to work for the purposes of keeping in touch with the workplace.

*Other leave of absence*

**66.—**(1) If, on or after 1st April 2008, a member is on a leave of absence for reasons other than those referred to in regulation 65 the maximum period of such leave that will count as superannuable employment under this paragraph is—

(a) where the member, for a continuous period of six months commencing with the member’s first day of leave of absence, pays to this Section of the scheme contributions due from the member in accordance with regulation 10, six months;

(b) where the member, for a continuous period of less than six months commencing with the member’s first day of leave of absence, pays to this Section of the scheme contributions due from the member in accordance with regulation 10, the period in respect of which those contributions were paid.

(2) If, having paid contributions for the period referred to in paragraph (1)(a), a member remains on leave of absence for reasons other than those referred to in regulation 65 the maximum period of such leave that will count as superannuable employment under this paragraph is—

(a) where the member pays to this Section of the scheme both contributions due from the member in accordance with regulation 10 and contributions due from the member’s employer in accordance with regulation 11 for a continuous period of 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), 18 months;

(b) where the member pays to this Section of the scheme both contributions due from the member in accordance with regulation 10 and contributions due from the member’s employer in accordance with regulation 11 for a continuous period of less than 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), the period in respect of which those contributions were paid.

(3) If the earnings used to calculate a member’s superannuable pay are reduced or cease during a period of absence to which this regulation applies superannuable pay (and, consequently, the member’s contributions and benefits) for the period of absence will be calculated on the basis of the member’s earnings immediately before the absence started.

**PART VIII**

**RIGHT TO BUY ADDITIONAL SERVICE OR UNREDUCED RETIREMENT**

**LUMP SUM**

*Right to buy additional service*

**67.—**(1) Subject to the provisions of this regulation and regulations 69(2) and (6) (Electing to buy additional service or unreduced retirement lump sum), 70 (Paying for additional service by single payment) and 72 (Paying for additional service or unreduced retirement lump sum by regular additional contributions), a member in superannuable employment may increase his rights to benefits under this Section of the scheme by buying additional service.

(1A) A member may only increase his rights to benefit by buying additional service, other

than that to which paragraph (9) refers, if—

(a) the member has given notice of the member’s intention to exercise that right in writing

or in such other form as the Department agrees to accept; and

(b) that notice is received by the member’s employing authority or the Department on or

before 31st March 2008; and

(c) the Department accepts an election to pay for additional service under regulation 69 and

the member makes regular additional contributions in respect of that election from a

birthday that falls between 1st April 2008 and 31st March 2009.

(2) A member buying additional service to which paragraph (9) refers, may choose to pay for that additional service by—

(a) making a single payment in accordance with regulation 70; or

(b) making regular additional contributions in accordance with regulation 72; or

(c) a combination of (a) and (b).

(2A) A member buying additional service other than that to which paragraph (9) refers, must pay for that additional service by making regular additional contributions in accordance with regulation 72.

(3) The member must exercise his right to buy additional service within the time limits described in regulation 70 or, as the case may be, regulation 72 and before becoming entitled to a pension under regulations 12 (Normal retirement pension) or 49 (Preserved pension).

(4) Any period of additional service that the member buys will count as superannuable service for all of the purposes of this Section of the scheme, except -

(a) for the purpose of calculating whether and, if so, by how much the member’s superannuable service should be (or, where the member dies in superannuable employment, would have been) increased as described in regulation 13 or 13A; and

(b) for the purpose of calculating the member’s qualifying service in accordance with regulation 5 (Meaning of qualifying service).

(5) For the purposes of regulation 29 (Widower’s pension), if a woman exercised her right to buy additional service before 6th April 1988, the additional service bought as a result of that exercise of her right will be treated as service before 6th April 1988.

(5A) For the purposes of regulation 31A (Surviving civil partner’s pension) if a civil partner exercised his right to buy additional service before 6th April 1988, the additional service bought as a result of the exercise of that right will be treated as service before 6th April 1988.

(5B) For the purpose of regulation 31E, if a member who has a nominated partner exercised his right to buy additional service before 6th April 1988, the additional service bought as a result of the exercise of that right will be treated as service before 6th April 1988.

(6) Subject to paragraph (7) and regulation 4(3), the maximum period of additional service that the member may buy is the period set out in the following table opposite the number of years of superannuable service that the member could complete if he stayed in superannuable employment until age 60 or, in the case of a special class officer, age 55. A member who could not complete at least 9 years superannuable service prior to reaching age 60 or, in the case of a special class officer, age 55 may not buy any additional service.

|  |  |
| --- | --- |
| *Potential years of*  *superannuable service* | *Maximum period of additional*  *service that member may buy* |
| 9 | 1 year |
| 10 | 2 years |
| 11 | 3 years |
| 12 | 4 years |
| 13 | 5 years |
| 14 | 7 years |
| 15 | 9 years |
| 16 | 11 years |
| 17 | 13 years |
| 18 | 15 years |
| 19 | 17 years |
| 20 or more | 20 years |
|  |  |

(6A) A member who -

(a) joined this Section of the Scheme on or after the 17th March 1987;  
  
(b) has made an application prior to September 1997 to buy additional service; and  
  
(c) does not commence making payments under regulation 72 until on or after 1st September 1997,

may, up until and including 31st August 1998, elect that paragraph (6) shall cease to apply to him.  
  
(6B) Paragraph (6) shall cease to apply to a member who -

(a) joined this Section of the Scheme on or after the 17th March 1987;  
  
(b) makes an application on or after 1st September 1997 to buy additional service; and  
  
(c) commences payment under regulation 72 on or after 1st September 1997.

(7) Subject to paragraph (10), the member’s right to buy additional service is subject to any limits imposed by the Inland Revenue.

(8) Where a special class officer buys a period of additional service, the amount of benefits attributable to that period of additional service will be those that would be payable in the case of a member who is not a special class officer.

(9) Where a member, following a break in superannuable employment in respect of which he received a refund of contributions which has not been repaid, rejoins this Section of the scheme, he may buy all or any part of the previous superannuable service provided that the employment giving rise to that service was not employment to which the contracting-out requirements applied.

(10) Except in the case of a pension debit member who is a moderate earner, a member may not replace any rights debited as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made.

(11) For the purposes of paragraph (10)—

“moderate earner” means a member whose superannuable pay during the tax year preceding the tax year in which his marriage or civil partnership is dissolved or annulled is not more than 25 per cent. of the permitted maximum for the tax year in which the dissolution or annulment occurred;

“pension debit member” means a person whose shareable rights under this Section of the scheme are subject to a debit under Article 26(1)(a) of the Welfare Reform and Pensions (Northern Ireland) (Order) 1999;

“permitted maximum” means the same as in section 590C of the Income and Corporation Taxes Act 1988 (earnings cap); and

*Right to buy an unreduced retirement lump sum*

**68.—**(1) Subject to the provisions of this regulation and regulations 69(2) and (6) (Electing to buy additional service or unreduced retirement lump sum), 71 (Paying for unreduced retirement lump sum by single payment) and 72 (Paying for additional service or unreduced retirement lump sum by regular additional contributions) a member in superannuable employment whose superannuable service started before 25th March 1972 and who is, or has been married, may make payments to this Section of the scheme to off-set all or part of any reduction in the lump sum payable to the member under regulation 17 (Lump sum on retirement).

(2) The member may choose to pay for an unreduced retirement lump sum by making a single payment in accordance with regulation 71 or by making regular additional contributions in accordance with regulation 72 or partly in one way and partly in the other.

(3) The member must exercise the right to buy an unreduced retirement lump sum within the time limits described in regulation 71 or, as the case may be, regulation 72 and before the lump sum becomes payable.

*Electing to buy additional service or unreduced retirement lump sum*

**69.—**(1) A member electing to buy additional service or unreduced retirement lump sum shall do so by giving notice in writing to the employing authority on the form provided, giving such information as may be required.

(2) A member may not exercise a right to buy additional service or unreduced retirement lump sum benefits during a period of absence from work or while his earnings are reduced or have ceased.

(3) For the purposes of these Regulations, the date on which a member elects to buy additional service or unreduced retirement lump sum means the date on which the employing authority receives the member’s completed form exercising that right.

(4) If a member who elects to pay for additional service or unreduced retirement lump sum by a single payment leaves superannuable employment within three months after starting that employment, the election will cease to have effect.

(5) For the purposes of paragraph (4), and notwithstanding regulation 65(4) (Absence because of illness or injury or maternity leave), a member whose earnings cease during a period of absence from work will not be treated as if he had left superannuable employment.

(6) The Department shall not accept an election from a member who wishes to pay for additional service or unreduced retirement lump sum by additional regular contributions unless satisfied that the member is in good health and that there is no reason why the member’s health should prevent him from paying the contributions for the whole period for which he has chosen to pay them.

*Paying for additional service by single payment*

**70.—**(1) A member who wishes to buy additional service for all or part of his previous superannuable service in accordance with regulation 67(9) by a single payment must elect to do so within 12 months of re-joining this Section of the scheme following the break in superannuable employment described in that regulation.

(2) ***revoked***

(3) The amount of a single payment for additional service will be one-half of the cost calculated in accordance with Table 1 of Schedule 1.

(4) For the purposes of Table 1 of Schedule 1, remuneration means, subject to paragraph (5), the yearly average of a member’s superannuable pay (ignoring any reduction or cessation of earnings as a result of absence or otherwise) in respect of the 3 months’ superannuable employment immediately preceding the date on which the member elects to buy the additional service or unreduced retirement lump sum.

(5) If the member has not been in superannuable employment for 3 months before electing to buy the additional service or unreduced retirement lump sum, remuneration means the yearly average of the member’s superannuable pay in respect of the first 3 months’ superannuable employment.

(6) The member must make any single payment for additional service within 3 months after electing to do so or, if later, within 6 months after starting superannuable employment.

(7) ***revoked***

*Paying for unreduced retirement lump sum by single payment*

**71.—**(1) A man who wishes to pay for an unreduced retirement lump sum by a single payment must elect to do so within 12 months after getting married, or, if he is not then a member, within 12 months of first rejoining this Section of the scheme after getting married.

(2) A woman who wishes to pay for an unreduced retirement lump sum by a single payment must elect to do so within 12 months after nominating her husband to receive a dependent widower’s pension under regulation 30 (Dependent widower’s pension).

(2A) A member who has formed a civil partnership who wishes to pay for an unreduced lump sum by single payment must elect to do so within 12 months after nominating his civil partner to receive a dependent surviving civil partner’s pension under regulation 31B (Dependent surviving civil partner’s pension.).

(2B) A member who has a nominated partner who wishes to pay for an unreduced lump sum by a single payment must elect to do so within 12 months after applying for his nominated partner to receive a dependent surviving nominated partner’s pension under regulation 31F.

(3) The amount of a single payment for an unreduced retirement lump sum will be calculated in accordance with Table 2 of Schedule 1.

(4) For the purposes of Table 2 of Schedule 1, “remuneration” means, subject to paragraph (5), the same as in regulation 70(4) and (5).

(5) In the case of a member who elects to buy an unreduced retirement lump sum but who is no longer required to contribute under regulation 10 (Contributions by members) because regulation 10(3) or (4) applies “remuneration” means the amount to which a pension equal to the member’s final year’s superannuable pay and beginning on the day on which regulation 10(3) or (4) started to apply would have been increased under Part I of the Pensions (Increase) Act (Northern Ireland) 1971at the date on which the member elects to buy an unreduced retirement lump sum.

(6) The member must make any single payment for unreduced retirement lump sum within 3 months after electing to do so or, if later, within 6 months after starting superannuable employment.

*Paying for additional service or unreduced retirement lump sum by regular additional contributions*

**72.—**(1) A member who wishes to pay for additional service or unreduced retirement lump sum by regular additional contributions must elect to do so before reaching age 63.

(2) Any such regular additional contributions shall be deducted from the members earnings, and paid to the Department, in like manner as under regulation 10(5) (Contributions by members).

(3) Subject to paragraph (4), the member must pay the regular additional contributions from his next birthday following the date on which he elects to buy the additional service or unreduced retirement lump sum until either his 60th or 65th birthday, whichever the member chooses (the chosen date).

(4) The period for which a member elects to pay regular additional contributions must be at least

2 years.

(5) The regular additional contributions will be calculated as a percentage of the member’s superannuable pay, in accordance with Table 3 of Schedule 1 (if the member is buying additional service) or Table 4 of Schedule 1 (if the member is buying an unreduced retirement lump sum).

(6) The member’s total regular contributions to this Section of the scheme before 1st April 2008 including contributions under regulation 10 (Contributions by members) may not exceed 15 per cent of superannuable pay, or any other limit specified for the time being by the HM Revenue and Customs.

(6A) The member’s total regular additional contributions made on or after 1st April 2008 under this regulation may not exceed—

(a) in the case of a member paying contributions of 5 per cent of his superannuable pay under regulation 10 on the member’s birthday immediately following the date of the election referred to in paragraph (3), 10 per cent of superannuable pay;

(b) in the case of a member paying contributions of more than 5 per cent of his superannuable pay under regulation 10 on the birthday referred to in sub-paragraph (a), 9 per cent of superannuable pay, or

(c) in any case referred to in sub-paragraph (a) or (b), any other limit specified for the time being by HM Revenue and Customs.

(7) Where a person elects to buy additional service in the circumstances described in regulation 67(9), the cost will be calculated as one-half of the cost calculated in accordance with Table 3 of Schedule 1.

(8) If a member who has elected to pay for additional service or unreduced retirement lump sum by regular additional contributions stops paying the contributions before the chosen date under paragraph (3), regulation 73 (Part payment for additional service or unreduced retirement lump sum) will apply.

*Part payment for additional service or unreduced retirement lump sum*

**73.—**(1) If a member who is paying for additional service or unreduced retirement lump sum by regular additional contributions stops paying before the chosen date under regulation 72(3), the member’s benefits will be calculated as described in this regulation.

(2) If, within 12 months after starting to pay the additional contributions, the member dies in superannuable employment or makes an application for a pension under regulation 13 or 13A which subsequently becomes payable, an amount equal to the contributions (less any tax that may be payable) will be returned to the member or the member’s personal representatives.

(3) If, 12 months or more after starting to pay the additional contributions, the member dies in superannuable employment or makes an application for a pension under regulation 13 (Early retirement pension (ill-health)) or 13A which subsequently becomes payable prior to his attaining age 60, the member’s benefits will, subject to paragraph (4), be increased to include the additional service or unreduced retirement lump sum that the member has chosen to buy.

(4) If neither of paragraphs (2) or (3) apply, the member’s benefits will include a proportion of the additional service or unreduced retirement lump sum that the member has chosen to buy, calculated as described in whichever of paragraphs (5) and (6) applies.

(5) Subject to paragraph (6) the proportion will be calculated as -

period for which contributions were paid

period for which contributions should have been paid

(6) If the member becomes entitled to receive benefits before the chosen date under regulation 72(3), the proportion of additional service or unreduced retirement lump sum to be credited to the member will be—

(a) calculated as described in paragraph (5), and

(b) then reduced by reason of the early payment of the pension and the lump sum by such amounts as the Department, after taking the advice of the Scheme Actuary, shall determine.

*Option to pay additional periodical contributions to purchase additional pension*

**73A.**—(1) A member who is in superannuable employment may opt to make additional periodical contributions during the contribution option period to increase by a specified amount—

(a) the benefits payable to the member under Parts III, V and X (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or

(b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.

(2) A member may exercise the option under paragraph (1) more than once.

(3) If a member exercises an option under paragraph (1), the member’s employing authority must—

(a) deduct the member’s contributions from the member’s earnings; and

(b) pay them to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be—

(a) an amount less than the minimum amount; or

(b) an amount other than a multiple of the minimum amount.

(5) In paragraph (4) “the minimum amount” means the amount that would, in accordance with tables prepared for the Department by the Scheme Actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member’s pension of—

(a) £250; or

(b) such other amount as the Department may for the time being determine assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)—

(a) may specify different amounts for different descriptions of members; and

(b) may be amended during a scheme year,

but no such amendment affects the contributions payable under any option during that year, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of—

(a) contributions made under regulation 73C; or

(b) contributions made under regulation 73D,

may not exceed £5000 or such other amount as the Department may for the time being determine.

(8) In these Regulations “the contribution option period”, in relation to an option under this regulation, means a period of whole years, that—

(a) is specified in the option;

(b) begins with the pay period in respect of which the first contribution is made under the option;

(c) is not less than 1 year nor more than 20 years; and

(d) does not end later than the member’s chosen birthday as specified in the option.

(9) For the purposes of this Part, a member’s “chosen birthday” must be either his 60th or 65th birthday.

*Effect of member being absent or leaving and rejoining this Section of the Scheme during the contribution option period*

**73B.**—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 73A—

(a) is absent from work for any of the reasons described in regulation 65(2); or

(b) is on a leave of absence in accordance with regulation 66.

(2) If paragraph (1) applies—

(a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 10; and

(b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 10 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if a member—

(a) exercises the option under regulation 73A;

(b) leaves superannuable employment during the contribution option period; and

(c) returns to superannuable employment within 12 months of leaving.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after returning to superannuable employment unless a refund of contributions has been made to the member under regulation 50.

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions to the Department in accordance with regulation 52(5) (Early leavers returning to superannuable employment).

*Members option to pay lump sum contributions to purchase additional pension*

**73C.**—(1) A member who is in superannuable employment may opt to make a single lump sum contribution to increase by a specified amount—

(a) the benefits payable to the member under Parts III, V and X; (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or

(b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.

(2) A member may only make a contribution under this regulation of an amount—

(a) that is not less than the minimum amount; or

(b) a multiple of that amount.

(3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Department by the Scheme Actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member’s pension of—

(a) £250; or

(b) such other amount as the Department may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1) the additional contribution is payable by the member to the employing authority—

(a) by deduction from the member’s earnings or otherwise; and

(b) before the end of the period of 1 month beginning with the day on which the member is notified by the Department that the option is accepted; and

(c) the employing authority must pay the additional contribution to the Department not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(6) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of—

(a) contributions made under regulation 73A; or

(b) contributions made under regulation 73D,

may not exceed £5000 or such other amount as the Department may for the time being determine.

*Payment of additional lump sum contributions by employing authority*

**73D.**—(1) The employing authority of a member who is in superannuable employment may opt to make a single lump sum contribution to increase by a specified amount—

(a) the benefits payable to the member under Parts III, V and X (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three to six months under Parts X and III); or

(b) those benefits and the benefits otherwise payable in respect of surviving partners and dependent children under Parts X and III.

(2) An employing authority may only make a contribution under this regulation of an amount—

(a) that is not less than the minimum amount (as defined in regulation 73C(3)); or

(b) a multiple of that amount.

(3) An employing authority may only exercise the option under paragraph (1) with the member’s consent, but may exercise it more than once in respect of the same member.

(4) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of—

(a) contributions made under regulation 73A; or

(b) contributions made under regulation 73C,

may not exceed £5000 or such other amount as the Department may for the time being determine.

(5) A contribution under this regulation must be paid by the employing authority to the Department within one month of the date on which the authority gave the Department notice under regulation 73E(2).

*Exercise of options under regulations 73A, 73C and 73D*

**73E.**—(1) A member exercising an option under regulation 73A or 73C must do so by giving notice in writing to the employing authority, giving such information as may be required.

(2) An employing authority exercising an option under regulation 73D must do so by giving notice in writing to the Department, giving such information as may be required.

(3) An option under regulation 73A, 73C or 73D may not be exercised during a period whilst the member is absent from work for any reason.

(4) For the purposes of these Regulations—

(a) a member is treated as exercising an option under regulation 73A or 73C on the date on which the employing authority receives the member’s notice under paragraph (1); and

(b) an employing authority is treated as exercising an option under regulation 73D on the date on which the Department receives the authority’s notice under paragraph (2).

(5) The Department—

(a) must refuse to accept an option exercised under—

(i) regulation 73A if not satisfied that that the member is in good health and there is no reason why the member’s health should prevent the member from paying the contributions for the whole contribution period;

(ii) regulation 73C or 73D if not satisfied that the member is in good health,

(b) may refuse to accept an option under regulation 73A, 73C or 73D in any other circumstances.

(6) If the Department refuses to accept such an option, the Department must give notice in writing of that fact—

(a) in the case of an option exercised under regulation 73A or 73C, to the member; and

(b) in the case of an option exercised under regulation 73D, to the employing authority and the member.

(7) These Regulations apply as if an option—

(a) under regulation 73A, 73C or 73D had not been exercised if the Department refuses to accept the option;

(b) under regulation 73C had not been exercised if the payment is not received by the employing authority—

(i) before the end of the period of 1 month beginning with the day on which the Department notifies the member of the acceptance of the option; or

(ii) if it is earlier, on or before the member’s chosen birthday, and

(c) under regulation 73D had not been exercised if the payment is not received by the Department on or before the member’s chosen birthday.

*Cancellation and cessation of options under regulation 73A*

**73F.**—(1) A member may cancel an option under regulation 73A(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option in accordance with paragraph (3), the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Department that the requirement in regulation 73A(7) will not be met if the member continues to makes periodical contributions under an option exercised under regulation 73A, the Department may cancel the option by giving the member notice in writing.

(4) If the Department cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

(5) If, after the exercise of the option under regulation 73A, the Department has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Department may cancel the option by giving the member notice in writing.

(6) If the Department cancels such an option in accordance with paragraph (5)—

(a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods: and

(b) any periodical payments made prior to the date of cancellation shall be returned to the member.

*Effect of payment of additional contributions under this Part*

**73G.**—(1) This regulation applies if—

(a) an option is exercised by a member under regulation 73A and all the contributions to be made under the option are made;

(b) an option is exercised by a member under regulation 73C or by a member’s employing authority under regulation 73D and the lump sum payment is made.

(2) Subject to paragraph (7), the member’s pension is increased by the full amount of the increase to be made in accordance with the terms of the option after the final adjustment in that amount in accordance with regulation 73J.

(3) Paragraph (2) is without prejudice to any reduction falling to be made in accordance with regulation 73H(5) as a result of the member becoming entitled to payment of a pension before his chosen birthday.

(4) In the case of an option under regulation 73A(1)(b), 73C(1)(b) or 73D(1)(b), any benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations is increased by the appropriate amount.

(5) In paragraph (4) subject to regulations 73H and 73I(3) “the appropriate amount” means—

(a) in the case of a surviving partner pension payable under regulation 24, 26 or 87A(10), 37.5 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member’s case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));

(b) in the case of a surviving partner pension payable under regulation 25, 37.5 per cent of the amount of the increase in the member’s pension as a result of the option;

(c) in the case of a child allowance payable under regulation 34, 36 or 87A(17)(b), the appropriate fraction of 75 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member’s case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));

(d) in the case of a child allowance payable under regulation 35, the appropriate fraction of 75 per cent of the amount of the increase in the member’s pension as a result of the option.

(6) For the purposes of paragraph (5) the “appropriate fraction” means the same fraction as that applied to the member’s pension in order to calculate the amount of child allowance payable in respect of that member.

(7) Paragraph (8) applies only to an option under 73A(1)(a), 73C(1)(a) or 73D(1)(a) where a pension is to be paid for either three or six months at the same rate as the member’s pension was being paid at the date of that member’s death.

(8) Any increase in a member’s pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (7).

*Effect of death or early payment of pension after option exercised under regulation 73A, 73C or 73D*

**73H.**—(1) If a member in respect of whom an option under regulation 73A, 73C and 73D has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

(a) regulation 73G(4) does not apply; and

(b) an amount equal to the contributions paid under the option must be paid—

(i) in the case of an option under regulation 73A or 73C, to the member’s personal representatives; and

(ii) in the case of an option under regulation 73D, to the employing authority which made the contribution.

(2) Subject to regulation 73F(5) and (6), if a member in respect of whom an option under regulation 73A has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 73G(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 73A, 73C or 73D has been exercised becomes entitled to a pension under regulation 13A as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

(a) regulation 73G(2) and (4) does not apply; and

(b) an amount equal to the contributions paid under the option must be paid—

(i) in the case of an option under regulation 73A or 73C, to the member, and

(ii) in the case of an option under regulation 73D, to the employing authority which made the contribution.

(4) Subject to regulation 73F(5) and (6), if a member in respect of whom an option under regulation 73A has been exercised becomes entitled to a pension under regulation 13A before the end of the contribution period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 73G(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 73A, 73C or 73D has been exercised—

(a) becomes entitled to a pension under regulation 14, 14A, or 16; or

(b) becomes entitled to a pension under regulation 12 or 49 before reaching the age of 60; or

(c) becomes entitled to a pension under regulation 12 after age 60 but before his chosen birthday

the increase in the member’s pension which would otherwise be due under regulation 73G(2) or regulation 73I is reduced.

(6) The amount of the reduction is such amount as the Department determines, after consulting the Scheme Actuary, to be appropriate by reason of the payment of the increase before the member reaches his chosen birthday.

*Effect of part payment of periodical contributions*

**73I.**—(1) This regulation applies if—

(a) the full number and amount of contributions due under an option under regulation 73A for the whole contribution option period are not made; and

(b) paragraphs (1) to (4) of regulation 73H do not apply.

(2) The increase in the member’s pension is—

(a) the appropriate proportion of the increase that would have been made under regulation 73G(2) if the full number and amount of contributions had been made; or

(b) the appropriate proportion of the increase calculated in accordance with sub-paragraph (a) reduced in accordance with regulation 73H(5) if that regulation applies to the member.

(3) In the case of an option under regulation 73A(1)(b), 73C(1)(b) or 73D(1)(b), the increase in any surviving partner or child allowance payable under Parts III and X in respect of the member is—

(a) the appropriate proportion of the increase that would have been made under regulation 73G(4) if the full number and amount of contributions had been made; or

(b) the appropriate proportion of the increase calculated in accordance with sub-paragraph (a) reduced in accordance with regulation 73H(5) if that regulation applies to the member.

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the Scheme Actuary may determine and specify in guidance given to the Department.

(5) In making a determination under paragraph (4), the Scheme Actuary must have regard to—

(a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 73A for the whole contribution option period; and

(b) the preservation requirement.

*Revaluation of increases bought under options: members’ pensions*

**73J.**—(1) Where an option under regulation 73A, 73C or 73D 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 whichever of paragraphs (5) and (5A) applies.

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

Step 1 – Calculate the basic amount of the increase in accordance with regulations 73G to 73I, 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([[1]](#footnote-1)) 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) If the member exercised the option on or before 31stMarch 2011, the calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 73G to 73l, 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).

(5A) If the member exercised the option on or after 1st April2011, the calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 73G to 73l, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the 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 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) and the “prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purpose of the Pensions (Increase) Act (Northern Ireland) 1971.

**PART IX**

**SPECIAL PROVISIONS FOR CERTAIN MEMBERS**

*Practitioners and trainee practitioners*

**74.—**(1) These Regulations apply to members who are or have been practitioners as if they were officers employed by the relevant employing authority, but with the modifications described in Schedule 2.

(2) These Regulations apply to members who are or have been trainee practitioners as if they were whole-time officers employed by the relevant employing authority.

(3) These Regulations apply from 1st April 2004 to a non-GP provider as if they were whole-time officers employed by the relevant Health and Social Services Board with the modifications described in paragraphs 3, 4, 5, 10 and 23 of Schedule 2.

*Nurses, physiotherapists, midwives and health visitors*

**75.—**(1) Subject to paragraph (2), this regulation applies to a member–

1. who, at the coming into operation of these Regulations-
   1. is in superannuable employment as a nurse, physiotherapist, midwife or health visitor, or
   2. has accrued rights to benefits under this Section of the scheme arising out of a previous period in which the member was engaged in such employment and at no time since the last occasion on which the member was so engaged has had a break in superannuable employment for any one period of 5 years or more,

and

(b) who spends the whole of the last 5 years of superannuable employment as a nurse, physiotherapist, midwife or health visitor.

(2) This regulation shall cease to apply if the member has a break in superannuable employment of

5 years or more ending after the coming into operation of these Regulations.

(3) Where this regulation applies-

(a) regulation 12 (Normal retirement pension) will apply to the member as if the reference in paragraph (1) of that regulation, to age 60, were a reference to age 55:

1. if the member leaves superannuable employment because of redundancy, but without becoming entitled to a pension under regulation 14 (Early retirement (redundancy etc) or regulation 14A (Early retirement pension (termination of employment by employing authority)), regulation 49 (Preserved pension) will apply as if the references, in paragraphs (1), (3) and (4) of that regulation, to age 60, were references to age 55.

(4) Where, in accordance with paragraph (3), a member becomes entitled to receive a pension before age 60, the amount payable shall -

(a) in the case of a female member, be calculated by reference to all of her superannuable service under this Section of the scheme; and

(b) in the case of a male member, be calculated only by reference to superannuable service on or after 17th May 1990.

(5) Subject to paragraph 72(4), if the member chooses to pay for additional service or unreduced retirement lump sum by regular additional contributions under regulation 72, contributions may be made from the next birthday following the exercise of the right to do so, until the member’s 55th, 60th or 65th birthday, whichever the member chooses, and that date will be the chosen date under regulation 72(3).

(6) For the purposes of paragraphs (1) and (2), superannuable employment includes employment that qualified the member for benefit under a health service scheme.

(7) For the purpose of calculating the 5 year period referred to in sub-paragraph (1)(b), “superannuable employment” does not include additional service bought under regulation 67 or a period in respect of which a refund of contributions has been paid under regulation 50.

*Mental health officers*

**76.—**(1) Subject to paragraph (2), this regulation applies to a member who at the coming into operation of these Regulations –

(a) is in superannuable employment under this Section of the scheme as a mental health officer; or

(b) has accrued rights to benefits under this Section of the scheme arising out of a previous period in which the member was engaged in such employment and at no time since the last occasion on which the member was so engaged has had a break in superannuable employment for any one period of 5 years or more.

(2) Subject to paragraph (3), this regulation shall cease to apply if the member has a break in superannuable employment for any one period of 5 years or more ending after the coming into operation of these Regulations.

(3) Paragraph (2) shall be without prejudice to the operation of paragraph (5)(a) in relation to any period prior to this regulation ceasing to apply.

(4) For the purposes of paragraphs (1) and (2), superannuable employment includes employment that qualified the member for benefit under a health service scheme.

(5) Subject to paragraphs (6) and (7), where this regulation applies-

(a) If the member has in excess of 20 years’ superannuable service as a mental health officer, regulation 12 (Normal retirement pension) will apply as if the reference in paragraph (1) of that regulation, to age 60 were a reference to age 55, but only if the member was in superannuable employment as a mental health officer immediately before leaving: and

(b) each complete year of superannuable service as a mental health officer in excess of 20 years will count as 2 years superannuable service.

(6) For the purposes of calculating the 20 year period referred to in paragraph (5)-

(a) there shall, in the case of a member who has reached age 50, be taken into account any period before he became a mental health officer in which he was employed on the staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder and in which he devoted the whole or substantially the whole of his time to the treatment and care of such persons unless it would be more favourable to the member (or, if the member has died, to the persons entitled to benefits in respect of the member) to disregard this paragraph.

(b) superannuable service does not include additional service bought under regulation 67 (Right to buy additional service).

(7) Paragraph (5) does not apply-

(a) for the purpose of calculating, under regulation 13 or 13A and regulations 34, 35 and 36 (child allowance), the superannuation service the member could have completed if he had stayed in superannuable employment until a particular age;

(b) for the purpose of calculating a minimum widow’s, widower’s, surviving civil partners or surviving nominated partner’s pension based on the member’s service after 5th April 1978 under regulation 28(2) (Member marries after leaving superannuable employment); or

(c) for the purpose of calculating a member’s benefits where it would be more favourable to the member or other person entitled to the benefits not to apply that paragraph and to calculate the member’s final year’s superannuable pay when the member leaves superannuable employment, completes 45 years’ superannuable service (calculated without regard to paragraph (5)(b)), reaches age 65 or dies, whichever occurs first.

(8) Where, by virtue of sub-paragraph (7)(c), paragraph (5) does not apply, the amount of any contributions that should have been paid by the member under regulation 10 (Contributions by members), but were not deducted from the member’s earnings will be deducted from the lump sum payable on the member’s retirement or death.

(9) If a member who has in excess of 20 years superannuable service for the purposes of paragraph (5) leaves HPSS employment before age 55 because of redundancy, but without becoming entitled to a pension under regulation 14 (Early retirement pension (redundancy etc)) or regulation 14A (Early retirement pension (termination of employment by employing authority)), and was in superannuable employment as a mental health officer immediately before leaving, regulation 49 (Preserved pension) will apply as if the references in that regulation to age 60 were to age 55.

(10) Subject to paragraph (12), if any member to whom this regulation applies becomes entitled to a preserved pension under regulation 49 on ceasing to be a mental health officer, the pension will be based on the greater of the member’s basic service and a period of service calculated as -

basic service X potential service

potential basic service

where –

“basic service” means the member’s superannuable service calculated without regard to paragraph (5);

“potential basic service” means the superannuable service the member could have completed if he had stayed in superannuable employment until age 55, calculated without regard to paragraph (5); and

“potential service” means the superannuable service the member could have completed, taking account of paragraph (5), if he had stayed in superannuable employment as a mental health officer until age 55.

(11) Subject to paragraph (12), if a member with at least 2 years’ qualifying service ceases to be a mental health officer while continuing in superannuable employment, the member’s pension in respect of the period before ceasing to be a mental health officer will be equal to the preserved pension to which the member would have become entitled in accordance with paragraph (10) if he had left superannuable employment on the day he ceased to be a mental health officer.

(12) Paragraphs (10) and (11) do not apply if the member again becomes a mental health officer within 12 months after the date on which he ceased to be a mental health officer.

(13) Subject to regulation 72(4), if a member elects to pay for additional service or unreduced retirement lump sum by regular additional contributions under regulation 72 he may elect to make those contributions from his next birthday following the date on which he elected to buy the additional service or unreduced lump sum until his 55th, 60th or 65th birthday, whichever he chooses, and that date will be the chosen date under regulation 72(3).

(14) In this regulation, “mental health officer” means -

(a) an officer working whole-time on the medical or nursing staff of a hospital used wholly or partly for the treatment of people suffering from mental disorder, who devotes all, or almost all, of his time to the treatment or care of persons suffering from mental disorder;

(b) any other officer employed in such a hospital who is within a class or description of officers designated by the Department as mental health officers for this purpose; and

(c) a specialist in part-time HPSS employment who devotes all, or almost all, his time to the treatment or care of people suffering from mental disorder and who satisfies the requirements of paragraph (15).

(15) A member satisfies the requirements of this paragraph if he holds a whole-time specialist post and either-

(a) he receives at least 10/11ths of the superannuable pay that he would have received for whole-time HPSS employment, or

(b) he was appointed before 1st January 1980 and retains the right, to which he was entitled on

31st December 1979, to be paid at least 9/11ths of the superannuable pay that he would have received for whole-time HPSS employment.

(16) The Department may agree to treat as a mental health officer any member who, by reason of having transferred to part-time superannuable employment, would otherwise cease to be a mental health officer providing that person is engaged in work which had it been whole-time, would have qualified that member for mental health officer status and there is no break in superannuable employment between the transfer from whole-time to part-time employment.

(17) Where a member is treated as a mental health officer by virtue of paragraph (15) or (16), each year of part-time superannuable service shall, for the purpose of determining whether the member has in excess of 20 years superannuable service for the purposes of paragraph (5) (but for no other purpose), be treated as if it were a year of whole-time superannuable service.

*Members doing more than one job*

**77.—**(1) This regulation applies to members in HPSS employment-

(a) with one or more employing authority;  
  
(b) who hold, under one employing authority, two or more separate employments; or  
  
(c) to whom paragraph 10A applies.

(2) A member may contribute to the this Section of scheme in respect of all or any of his employments with employing authorities, providing that the employments in respect of which he chooses to contribute to this Section of the scheme do not in aggregate exceed, as determined by the Department, a single comparable whole-time employment.

(3) Any amount by which a member’s superannuable pay in respect of concurrent part-time employments exceeds the amount that the Department determines would have been paid in respect of a single comparable whole-time employment will be ignored.

(4) Any amount by which the member’s superannuable service in respect of concurrent part-time employments, calculated as described in regulation 78 (Part-time employment), exceeds the period during which the member carried on those employments will be ignored.

(5) Subject to paragraph (6), a member shall not become entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49 until the termination of all HPSS employments (including employment as a practitioner) or he reaches age 75.

(6) If a member leaves employment with one employing authority and becomes entitled to a pension under regulation 14 (Early retirement pension (redundancy etc)) or regulation 14A (Early retirement pension (termination of employment by employing authority)), in relation to the employment that has ended, the member may elect to take benefits only in respect of the employment that has ended and to continue to accrue rights to benefits in respect of any other continuing superannuable employment.

(7) Where a member makes an election under paragraph (6), paragraph (5) will apply in relation to any employment in respect of which the member continues to accrue rights to benefits.

(8) For the purposes of paragraph (5) a member, on leaving HPSS employment, shall be treated as having terminated all HPSS employment where any remaining HPSS employment amounts to 16 hours per week or less.

(9) Regulation 85 (Reduction of pension on return to HPSS employment) will apply to any member who becomes entitled to a pension under paragraph (6) while continuing in other HPSS employment.

(10) Subject to paragraph 10A, in calculating final year’s superannuable pay there shall be taken into account superannuable pay in respect of any other superannuable employment in that final year except a superannuable employment in respect of which the member continues to accrue rights to benefits in accordance with paragraph (6).

(10A) A member who becomes entitled to a pension under regulation 14 or 14A as an officer, and has terminated his concurrent employment as a practitioner not more than 12 months before the date on which he becomes entitled to that pension, shall not be entitled to receive a pension under regulation 14 or 14A in respect of any employment as a practitioner, but shall only be entitled to receive a pension under regulation 12, regulation 16, or a preserved pension under regulation 49, in respect of such employment.  
  
    (10B) Where paragraph (10A) applies, the member may, in respect of any service as an officer which has terminated and to which paragraph (9)(1), (6) or (9) of Schedule 2 applies, elect for that paragraph not to apply and instead to receive a pension under regulation 14 or 14A in respect of that service.

(11) A member will not receive a refund of contributions under regulation 50 until he leaves all superannuable employment without becoming entitled to a pension under any of regulations 12 to 16 or a preserved pension under regulation 49.

(12) A member may exercise a right to transfer or buy-out under regulations 53 to 57 (transfers and buy-outs) only if he leaves all superannuable employment before reaching age 60 and before becoming entitled to a pension under this Section of the scheme.

*Part-time employment*

**78.—**(1) Subject to paragraphs (6) and (10), a member’s superannuable service in part-time employment will not count as its full length but will be calculated as described in paragraphs (2) or (3), whichever is applicable, as its whole-time equivalent.

(2) If the member’s part-time employment is expressed as a specified number of half-days or sessions a week, the whole-time equivalent of the member’s superannuable service in respect of that employment will be calculated by multiplying the full length of that service by the following fraction -

member’s superannuable pay

comparable whole-time earnings

(3) In any case where paragraph (2) does not apply, the whole-time equivalent of the member’s superannuable service in respect of part-time employment will be calculated by multiplying the full length of that service by the following fraction -

member’s hours of employment each week

hours constituting comparable whole-time employment

(4) Subject to paragraph (5), for the purpose of calculating a member’s final year’s superannuable pay in respect of part-time employment, the member’s superannuable pay will be the amount that the Department determines would have been paid in respect of a single comparable whole-time employment and any amount by which the member’s actual final year’s superannuable pay in respect of part time employment exceeds the amount determined will be ignored.

(4A)  In paragraph (4) a "single comparable whole-time employment" means the number of hours, half-days or sessions which the Department determines would constitute single comparable whole-time employment.

(5) Paragraph (4) does not apply to the calculation of final year’s superannuable pay for the purposes of -

(a) regulations 18(2) and 19(2) (lump sum payable on death in superannuable employment or after pension becomes payable);

(b) regulation 85 (Reduction of pension on return to HPSS employment).

(6) If a member with superannuable service in part-time employment becomes entitled to a pension under regulation 13, 13A, 14 or 14A (ill health pensions, pensions on redundancy and early retirement pensions)—

(a) the member’s superannuable service in part-time employment will count at its full length for the purpose of calculating—

(i) whether and (if so) to what extent, the superannuable service upon which the pension under regulation 13 or 13A is based should be increased under that regulation; or

(ii) the qualifying service for the purposes of regulation 14(2)(a) or regulation 14A(2)(a),

(b) the pension will be based on the whole-time equivalent of the period of part-time employment and, in the case of a pension under regulation 13 or 13A, the increase under that regulation will be limited to such amount as bears the same proportion to the amount that would have been paid had the superannuable service not been part-time as the whole-time equivalent bears to comparable whole-time employment.

(7) If a member in part-time superannuable employment elects to buy additional service as described in regulation 67 (Right to buy additional service), the period of additional service will be calculated in accordance with Table 1 or Table 3 of Schedule 1 (whichever is applicable) and then reduced by multiplying the full length of that additional service by the following fraction -

part time superannuable employment

comparable whole-time superannuable employment

where –

“part-time superannuable employment” means the number of hours, half-days or sessions that the member was required to work under his contract of employment during the period by reference to which “remuneration” was calculated for the purposes of Table 1 of Schedule 1 or regular additional contributions were paid in accordance with regulation 72 (Paying by regular additional contributions); and

“comparable whole-time superannuable employment” means the number of hours, half-days or sessions that would have constituted comparable whole-time superannuable employment during that period.

(8) If a member in part-time HPSS employment elects to buy an unreduced retirement lump sum as described in regulation 68 (Right to buy all unreduced retirement lump sum), the period referred to in Table 2 or Table 4 of Schedule 1 (whichever is applicable) will be reduced in like manner as described in paragraph (7).

(9) Paragraphs (7) and (8) above also apply for the purposes of regulation 73 (Part payment for additional service or unreduced retirement lump sum).

(10) A member’s superannuable service in respect of part-time employment will count at its full length (and concurrent periods of employment will be treated as a single employment) for the purposes of regulations 4(3) (limit on service that counts for benefits) and 5(1) (Meaning of qualifying service).

*Members entitled to fees for domiciliary consultations*

**79.—**(1) This regulation applies to members who, as medical or dental officers, have received fees from an employing authority in respect of domiciliary consultations.

(2) Any fees received in respect of domiciliary consultations will be included in the member’s superannuable pay for the purposes of regulation 10 (Contributions by members).

(3) Any fees in respect of domiciliary consultations that are included in the member’s superannuable pay for the purposes of regulation 10 will also be included in the member’s superannuable pay for the purpose of deciding the year by reference to which final year’s superannuable pay is to be calculated, but the member’s final year’s superannuable pay will then be reduced by the amount of any fees received in respect of domiciliary consultations during that year.

(4) If the member’s final year’s superannuable pay is reduced as described in paragraph (3), a supplementary benefit shall be payable with each benefit that is payable to, or in respect of, the member under this Section of the scheme.

(5) Subject to paragraph (6), each supplementary benefit that is payable in accordance with paragraph (4) will be calculated in the same way as the benefit that it supplements as if the amount of the fees received in respect of domiciliary consultations during the year by reference to which final year’s superannuable pay is calculated were the member’s final year’s superannuable pay.

(6) Any supplementary benefit will be based on the same service as the benefit that it supplements, except that-

(a) any period of additional service bought as described in regulation 67 (Right to buy additional service) will be ignored;

(b) any additional period of service credited to the member by virtue of regulation 76(5)(b) (mental health officers) will be ignored;

(c) any period of service calculated as described in regulation 32(7) of the previous Regulations (Calculation of service in part-time employment) will be ignored; and

(d) where that superannuable service consists of or includes part-time employment, regulation 78(1) (Part-time employment) will be ignored.

(7) If the member exercises a right to buy additional service under regulation 67 or unreduced retirement lump sum under regulation 68, the amount of any fees received from an employing authority in respect of domiciliary consultations will not be included in the member’s superannuable pay for the purpose of calculating the cost of the additional service or unreduced retirement lump sums, except as described in paragraph (8).

(8) If the member exercises a right to buy an unreduced retirement lump sum under regulation 68-

(a) any fees received during the last financial year to end before the member elects to buy an unreduced retirement lump sum will be included in the member’s remuneration for the purpose of calculating the amount payable under regulation 71(3) (Paying for an unreduced retirement lump sum by a single payment); and

(b) any fees received while the member is paying for an unreduced retirement lump sum by regular additional contributions will be included in the member’s superannuable pay for the purposes of regulation 72(5) (Paying for additional service or unreduced retirement lump sum by regular additional contributions).

(9) If the member returns to HPSS employment after becoming entitled to a pension, the member’s final year’s superannuable pay will include, for the purposes of calculating previous day under regulation 85 (Reduction of pension on return to HPSS employment), the amount of any fees received in respect of domiciliary consultations during the year by reference to which final year’s superannuable pay is calculated.

*Members who work temporary additional sessions*

**80.—**(1) This regulation applies to members who work temporary additional sessions.

(2) Any period of employment in respect of a temporary additional session will be ignored when calculating a member’s superannuable service, and any payment received in respect of that employment will be ignored when calculating the member’s superannuable pay.

(3) In this regulation, “temporary additional session” means a session equivalent to an extra notional half-day which a specialist or an officer appointed to a post in the grade of associate specialist has, in exceptional circumstances, undertaken to work and which does not form part of the member’s normal contractual duties.

(4) In the case of a member who holds a whole-time specialist post and who receives at least 10/11ths of the superannuable pay that he would have received for whole-time superannuable employment, “temporary additional session” also includes any session in excess of 10 in any one week, regardless of its length.

*Former members of health service schemes*

**81.—**(1) For the purposes of these regulations, “health service scheme” means –

(a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972 and for the time being in force in relation to Scotland,

(b) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972 and for the time being in force in relation to England and Wales,

(c) in the case of a member whose superannuable employment commenced on or before 1st April 2012, a superannuation scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), or

(d) any other occupational pension scheme approved for this purpose by the Department.

(2) A member who leaves superannuable employment in respect of which he qualified for benefit under a health service scheme and who, within 12 months of so leaving, joins this Section of the scheme may, subject to paragraphs (3) and (4), require the Department to credit him with a period of superannuable service (together with the rights attached to that service) under this Section of the scheme calculated as if -

1. the employment to which the health service scheme applied were HPSS employment, and
2. the member’s contributions to the health service scheme were contributions to this Section of the scheme.

(3) The member may exercise this right only if a transfer payment is made from the health service scheme to this Section of the scheme.

(4) A member who wishes to exercise this right must do so by making application in writing to the Department within 1 year after joining this Section of the scheme.

(5) A member who leaves employment to which a health service scheme applied without becoming entitled to any benefits other than a return of contributions may buy additional service as described in regulation 67 (Right to buy additional service) and regulations 70(7) and 72(8) will apply, as the case may be, as if the previous service under a health service scheme were previous service under this Section of the Scheme.

(6) A member who leaves employment in respect of which the member qualified for benefit under a health service scheme and who joins the 2015 Scheme may, by notice in writing, require the Department to credit the member with a relevant period of superannuable service (together with the rights attaching to that service) under this Section of the scheme.

This is subject to paragraphs (8) and (9).

(7) That relevant period of superannuable service is calculated as if—

(a) the employment to which the health service scheme applied were HSC employment; and

(b) the member’s contributions to that health service scheme were contributions to this Section of the scheme.

(8) The member may only exercise the right referred to in paragraph (6) if —

(a) a transfer payment is made from the health service scheme to this Section of the scheme, and

(b) on the day the member becomes an active member of the 2015 Scheme, paragraph 2 of Schedule 7 to the 2014 Act applies to the period of service in respect of which that transfer value payment is made.

(9) A notice referred to in paragraph (6) must be addressed to the Department and given within 1 year after joining the 2015 Scheme.

*Members whose earnings are reduced*

**82.—**(1) The Department may agree to pay a preserved pension under regulation 49 in respect of a member’s superannuable service before his earnings were reduced if—

(a) the member has at least two years qualifying service; and

(b) within the three month period after the member’s earnings are reduced that the member’s employer certifies that the reduction is due to the circumstances described in paragraph (2); or

(c) the member satisfies all of the conditions specified in paragraph (2A).

(2) The circumstances referred in paragraph (1)(b) are that the reduction is due to—

(a) the member being transferred to other employment with an employing authority; or

(b) the member taking up other employment with an employing authority, in circumstances approved by the Department; or

(c) a change in the member’s duties, while continuing in the same employment, otherwise than at the member’s request or as a result of something done by the member.

(2A) The conditions referred to in paragraph (1)(c) are that—

(a) the member has attained normal minimum pension age or, where relevant, protected pension age;

(b) the member makes an election and the Department has not previously accepted an election made by that member, and

(c) the member’s employer has certified that—

(i) the member’s superannuable pay is reduced by at least 10 per cent for a period of at least one year beginning with the first pay day on which the reduced superannuable pay was paid;

(ii) for a period of at least 12 months ending immediately before the reduction referred to in head (i), the member’s superannuable pay had not been subject to any other reduction;

(iii) the reduction to the member’s superannuable pay is the result of a change to that member’s duties so that his new, or remaining, duties are less demanding and carry less responsibility than the member’s previous duties.

(3) The preserved pension will be calculated and paid as described in regulation 49 (Preserved pension), as if the member had left superannuable employment immediately before his earnings were reduced.

(4) An election referred to in paragraph (2A) must be made—

(a) in writing and addressed to the Department; and

(b) within 15 months of the member’s superannuable pay being reduced.

(5) If a member continues to contribute to this Section of the scheme after the Department agrees to pay a preserved pension under regulation 49 in accordance with paragraph (1) the member’s superannuable service before and after the member’s earnings are reduced will, subject to paragraph (6), be treated separately unless, when the member becomes entitled to receive a pension, or dies, (whichever occurs first), it would be more favourable to the member to treat the member’s superannuable service before and after the reduction, and all such other reductions (if any), as continuous.

(6) The member’s superannuable service before and after the member’s earnings are reduced-

(a) will be treated as continuous for the purpose of calculating the member’s qualifying service under regulation 5 (meaning of qualifying service); and

(b) if the member next leaves superannuable employment with a pension under regulation 13 (Early retirement pension (ill-health)), or 13A will be treated as continuous for the purpose of calculating whether, and if so to what extent, the superannuable service on which the pension is based should be increased.

(7) If the member leaves superannuable employment with a pension under regulation 13 or 13A and the member’s superannuable service falls to be increased as described in—

(a) paragraphs (4) to (6) of regulation 13; or

(b) paragraphs (4) to (6) of regulation 13A,

then, if the member’s superannuable service before and after the break is treated separately under paragraph (5), the increase will apply only in respect of benefits attributable to the period after the member’s earnings were reduced.

(8) For the purposes of this regulation, “superannuable pay” in respect of part-time employment means the amount that the Department determines would have been paid in respect of a single comparable whole-time employment..

*Polygamous marriages*

**83**.—(1) If a member dies without leaving a widow or widower but the member was at the date of death married to a spouse under a law which permits polygamy any benefits that would be payable to the member’s widow or widower will be payable to that spouse, or where there is more than one, to those spouses in equal shares.

(2) The shares will be calculated as at the date the member dies.

(3) A spouse’s share of a pension will not be increased on the death of any other spouse.

*Participators in pilot schemes*  **83A.—**(1) For the purposes of these Regulations, for the duration of any pilot scheme-

(a) a registered dentist -

(i) who is, in relation to the pilot scheme, a person providing piloted services, or a dental pilot scheme employee; and

(ii) who, immediately prior to the commencement of the pilot scheme, was a member of the scheme by reason of his employment as a practitioner,

shall be treated as a practitioner employed by the relevant Health and Social Services Board;

(b) a registered dentist who is engaged, under a contract for services, by a person providing piloted services to carry out personal dental services in accordance with a pilot scheme shall be treated as a practitioner employed by the relevant Health and Social Services Board;

(c) a registered dentist shall be treated as an officer if-

(i) he is a dental pilot scheme employee; and

(ii) immediately prior to the commencement of the pilot scheme he was a member by virtue of his employment as an officer; and

(iii) his name was at that time included in a dental list immediately prior to the commencement of the pilot scheme;

(d) a registered dentist to whom paragraph (a) does not apply shall—

(i) if he is providing piloted services, be treated as a practitioner employed by the

relevant Health and Social Services Board; or

(ii) if he is a dental pilot scheme employee, be treated as an officer;

(e) omitted S.R. 2013 No.xxx refers (Dental regs)

(f) a member who, immediately prior to the commencement of a pilot scheme-

(i) was employed as a HPSS employee or as a HPSS dental employee and was not a registered dentist; or

(ii) ***revoked***

(iii) was employed as a dental pilot scheme employee, and was not a registered dentist,

and who, after the commencement of the pilot scheme, is providing piloted services, shall be treated as a whole-time officer employed by the relevant Health and Social Services Board;  
  
(g) ***revoked***

(h) a person other than a registered dentist who-

(i) is employed as a dental pilot scheme employee otherwise than by an HSS Trust;

(ii) immediately prior to the commencement of such employment, was employed by an HSS Trust or by a Health and Social Services Board as a HPSS dental employee; and

(iii) was at that time a member,

shall continue to be eligible to be a member;  
  
(i) omitted S.R. 2013 No.xxx refers (Dental regs).

(2) In paragraph (1) "relevant Health and Social Services Board" means the Health and Social Services Board which is a party to the pilot scheme agreement under which the piloted services are provided.

(3) Notwithstanding paragraph (1), where the provider of a piloted service is a qualifying body, it shall be liable to pay contributions under regulation 11, as if it were an employing authority, in respect of a member to whom paragraph (1)(b) applies, or who is employed by the qualifying body as a dental pilot scheme employee.

(4) For the purposes of this regulation, “qualifying body” means—

(a) a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry; or

(b) a company which is limited by shares, all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2) of Article 5 of the 1997 Order..

*Pension sharing on divorce or nullity of marriage*

**83B.**—(1) Schedule 2A shall have effect in relation to–

(a) pension credit rights; and

(b) pension credit benefit payable,

under this Section of the scheme.

(2) Except as provided for in this regulation and in Schedule 2A, regulations 3 to 99 shall not apply to a person entitled to a pension credit or to a pension credit member.

**PART X**

**MEMBERS WHO RETURN TO EMPLOYMENT AFTER PENSION BECOMES**

**PAYABLE**

*Suspension of pension on return to HPSS employment*

**84**.—(1) This regulation applies where a pension becomes payable to a member by virtue of regulation 12 (Normal retirement pension), 15 (early retirement pension (employer’s consent)) or 16 (Early retirement pension (with actuarial reduction)), or a preserved pension is payable to the member in the circumstances described in regulation 49, and within one month of the pension becoming payable, the member enters HPSS employment in which he is engaged for more than 16 hours per week.

(2) A member to whom this regulation applies must inform this employer, and any other person that the Department may specify, that his pension under this Section of the scheme has become payable.

(3) Where this regulation applies the pension referred to in paragraph (1) shall, subject to paragraph 4, cease to be payable.

(4) The pension referred to in paragraph (1) shall again become payable if the member either ceases to be in any HSC employment (or reduces the number of hours worked to 16 or less) for a period of one month or, if sooner—

(a) from the date of his 70th birthday if the pension referred to in paragraph (1) becomes payable on or before 31st March 2008; or

(b) from the date of his 75th birthday if the pension referred to in paragraph (1) becomes payable on or after 1st April 2008.

(5) For the purposes of this regulation “HPSS employment” includes -

(a) employment in respect of which regulations made under section 10 of the Superannuation Act 1972 and for the time being in force in relation to England and Wales and Scotland applies, and employment commencing on or before 31st March 2012 to which a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald) applies; and

(b) employment with an employer with whom an agreement has been made under Article 12(9) of the Superannuation (Northern Ireland) Order 1972 or in respect of whom a direction has been made under Article 12(6) of that Order.

*Reduction of pension on return to HPSS employment*

**85**.—(1) Subject to paragraph (15), this regulation applies to a member—

(a) until he attains the age of 60; and

(b) who is in receipt of a relevant pension; and

(c) who continues in, or subsequently returns to, HSC employment.

(1A) A relevant pension for the purpose of this regulation is a pension payable,—

(a) in respect of superannuable employment that ceased before 1st April 2008,—

(i) under any or regulations 13 to 14C (pensions on ill health retirement and redundancy), or

(ii) in accordance with regulation 49(2)(b) (Preserved pension); or

(b) in respect of superannuable employment that ceased on or after 1st April 2008,—

(i) any of regulations 13 to 14, or

(ii) in accordance with regulation 14A(2)(d)(ii) (Early retirement pension (termination of employment by employing authority)), or

(iii) except where paragraph (c) applies, in accordance with regulation 49(2)(b); or

(c) where the member is a special class officer—

(i) regulation 12 (Normal retirement pension), or

(ii) if regulation 75(3)(b) (Nurses, physiotherapists, midwives and health visitors) or regulation 76(9) (Mental Health Officers) applies to the member, in accordance with regulation 49(2)(b).

(2) A member to whom this regulation applies must—

(a) inform the member’s employer, and any other person that the Department may specify, that the member’s pension under this Section of the scheme has become payable; and

(b) if requested to do so, provide any information (or authorise any other person to provide information) about the member’s pay from HSC employment to the Department or to any other person the Department may specify.

(3) If the relevant pension is one referred to in paragraph (1A)(a) or (c)—

(a) the member’s pension will be reduced by the appropriate amount;

(b) the appropriate amount is the difference between the member’s previous pay and the

aggregate of—

(i) the amount of the member’s pension (including in that amount any amount by which

that pension has been reduced pursuant to an election under regulation 17A), and

(ii) the amount of the member’s pay from HSC employment for any financial year after

the pension becomes payable.

(3A) If the relevant pension is one referred to in paragraph (1A)(b), the member’s pension

will be reduced in accordance with paragraphs (3B) to (3D) if Amount A exceeds the member’s

previous pay.

(3B) The reduction in that member’s pension shall be equal to the difference between Amount A and the member’s previous pay, but shall not exceed Amount B.

(3C) For the purposes of paragraphs (3A) and (3B), Amount A is the aggregate of—

(a) the amount of the member’s pay from HSC employment for any financial year after the

pension becomes payable; and

(b) Amount B.

(3D) For the purposes of paragraphs (3B) and (3C), Amount B is the difference between—

(a) the amount of the member’s pension (including in that amount any amount by which that

pension has been reduced pursuant to an election under regulation 17A); and

(b) the amount of an actuarially reduced pension.

(4) A member’s pension will be reduced as described in this regulation whether or not the member is included in this Section of the scheme and in respect of the employment after his pension becomes payable and regardless of any provision of these Regulations under which a member may be treated as having left HPSS employment without actually leaving.

(5) For the purposes of paragraph (3), the amount to be taken as the member’s previous pay shall-

(a) be increased in each financial year by the amount by which a pension beginning on the date on which the member’s benefits under this Section of the scheme became payable (or, if earlier, the member left superannuable employment) would have been increased under Part I of the Pensions (Increase) Act (Northern Ireland) 1971at the 6th April falling in that financial year; and

(b) in the case of a person who holds a continuing employment (otherwise than as a practitioner) be increased by the annual rate of pay in respect of the continuing employment; and

(c) in the case of a person who is employed as a practitioner in continuing employment, be increased by the average of the annual amounts of uprated earnings in respect of the last 3 financial years prior to the pension referred to in paragraph (1) becoming payable.

(6) For the purpose of calculating the reduction to be made under paragraph (3) or (3A) in respect of any part of a financial year, the amount of the member’s “previous pay” will be reduced proportionately.

(7) This paragraph applies to a person who held a part-time superannuable employment immediately before the pension described in paragraph (1) became payable and who, within the 12 months preceding the date on which he became so entitled, held a concurrent part-time superannuable employment.

(8) Where paragraph (7) applies and the concurrent part-time superannuable employment terminated before the pension described in paragraph (1) became payable, previous pay shall be increased as described in paragraph (9).

(9) For the purpose of paragraph (8), previous pay shall be increased by the annual rate of pay in respect of the concurrent part-time employment mentioned in that paragraph or, if higher, that part of the superannuable pay for that employment which falls within the 12 month period mentioned in paragraph (7).

(10) This paragraph applies to a person who within the 12 months preceding the date on which the pension described in paragraph (1) became payable, was in superannuable employment as a practitioner.

(11) Where paragraph (10) applies and the superannuable employment as a practitioner terminated before the pension described in paragraph (1) became payable, previous pay shall be increased as described in paragraph (12).

(12) For the purpose of paragraph (11), previous pay shall be increased by the average of the annual amounts of the member’s uprated earnings in respect of the superannuable employment as a practitioner mentioned in that paragraph.

(13) For the purpose of paragraph (11), “uprated earnings” means the same as in paragraph 11(2) of Schedule 2.

(14) For the purposes of this regulation -

“actuarially reduced pension” means such annual amount as the Department determines, after consulting the Scheme Actuary, to be the amount that would have been payable to the member(regardless of whether the member has reached normal minimum pension age or protected minimum pension age) if the member had become entitled to a pension—

(a) calculated in accordance with regulation 16 (Early retirement pension (with actuarial reduction)) at the time he became entitled to a pension mentioned in paragraph (1A)(b),plus

(b) any increases to that amount payable under Part I of the Pensions (Increase) Act (Northern

Ireland) 1971 for that period;

“annual rate of pay” means the annual rate of so much of the member’s superannuable pay immediately before his pension became payable as consisted of salary, wages or other regular payments of a fixed nature plus so much of his superannuable pay as consisted of fees and other regular payments not of a fixed nature as was payable during the last year before his pension became payable;

“continuing employment” means a superannuable employment which a person held immediately before he became entitled to a pension under this Section of the scheme and which he continues to hold whether it is superannuable or not;

“HPSS employment” has the same meaning as regulation 84(5).

“pension” means the amount of pension paid under this Section of the scheme for any financial year, plus any increases to that pension payable under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 for that period.

“pay” means the amount of superannuable pay received by the member during that financial year from HPSS employment (or what would have been his superannuable pay had he been in superannuable employment); and

“previous pay” means, the greater of –

1. final year’s superannuable pay; and

(b) the annual rate of pay for any superannuable employment in respect of which the pension referred to in paragraph (1) becomes payable and which the member held immediately before becoming entitled to that pension.

(15) This regulation does not apply to—

(a) practice staff in respect of whom a pension is payable under any of regulations 12 to 16 and 49 who were employed by a registered medical practitioner on both 31st August 1997 and 1st September 1997 and who—

(i) were ineligible to rejoin this Section of the scheme with effect from 1st September 1997; or

(ii) made an election not to rejoin this Section of the scheme with effect from that date and who have not cancelled that election; and

(b) members who are transferred into HSC employment as a result of a transfer of an undertaking to the employer.

*Benefits in respect of superannuable employment after pension becomes payable*

**86**.—(1) This regulation applies to a member in respect of whom a pension becomes payable under regulation 13 (Early retirement pension (ill-health)) and who subsequently returns to superannuable employment.

(2) For the purposes of paragraphs (3) and (5), the member’s “previous service” means the superannuable service in respect of which the member became entitled to receive a pension under regulation 13 and the member’s “later service” means any superannuable service which accrues after becoming so entitled.

(3) Subject to paragraph (5), the member’s benefits in respect of later superannuable service shall be calculated without regard to the member’s previous superannuable service.

(4) Where the member becomes entitled, under regulation 13 (Early retirement pension (ill-health)), to a pension in respect of later service, regulation 13(3) shall not apply in the calculation of that pension.

(5) For the purposes of regulations 4 (Meaning of “superannuable service”) and regulations 10(3) and (4) (Contributions by members) the member’s previous service and later service shall be aggregated.

*Benefits in respect of superannuable employment after pension becomes payable under regulation 13A*

**86A.**—(1) This regulation applies to a member in respect of whom a pension is payable under regulation 13A and who subsequently returns to superannuable employment.

(2) For the purposes of this regulation—

(a) the member’s “previous service” means the superannuable service in respect of which the member became entitled to receive a pension under regulation 13A; and

(b) the member’s “later service” means any superannuable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member’s benefits in respect of later service shall be calculated without regard to the member’s previous service.

(4) For the purposes of regulation 4 (Meaning of superannuable service) and regulation 10(3) and (4) (Contributions by members), the member’s previous service and later service shall be aggregated.

(5) Subject to the following provisions of this regulation, a member who—

(a) is entitled to a tier 1 pension in respect of his previous service; and

(b) 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 benefits.

(6) Those benefits are—

(a) the member’s original tier 1 pension in respect of the member’s previous service; and

(b) a tier 1 pension or, as the case may be, a tier 2 pension in respect of the member’s later service.

(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.

*Benefits on death in superannuable employment after pension under regulation 13 becomes payable*

**87**.—(1) This regulation applies to a member in respect of whom a pension is payable under regulation 13 (Early retirement pension (ill-health)) who–

(a) returns to superannuable employment after that pension becomes payable; and

1. dies in superannuable employment.

(1A) Subject to the modifications set out in paragraph (1B) this regulation shall also apply to a member in respect of whom a pension is payable under regulation 13 (Early retirement pension (ill-health)) who—

(a) returns to superannuable employment after that pension becomes payable; and

(b) on the day they die, is—

(i) under the age of 70;

(ii) in HPSS employment;

(iii) no longer required to pay contributions pursuant to regulation 10(3) or (4) (contributions by members) on or before 1st April 2008; and

(iv) except where regulation 77(6) (Members doing more than one job) applies, not in receipt of a pension under any of regulations 12 to 16 in respect of his later service.

(1B) The modifications referred to in paragraph (1A) are—

(a) in paragraph (3A), for “on the date of the member’s death” substitute “on the member’s last day of superannuable employment”;

(b) in paragraph (7), for “superannuable pay when the member died” substitute “final year’s superannuable pay”;

(c) in paragraph (8), for “the 6 months immediately following the member’s death” substitute “the 3 months immediately following the member’s death or the 6 months immediately following the member’s death if he leaves a dependent child”;

(d) in paragraph (11), for “the 6 month period” substitute “the 3 month or, as the case may be, the 6 month period”;

(e) in paragraph (12)—

(i) for “rate of superannuable pay when he died” substitute “final year’s superannuable pay”, and

(ii) for “at that time” substitute “when he died”.

(1C) Subject to the modifications set out in paragraph (1D), this regulation shall also apply to a member in respect of whom a pension is payable under regulation 13 (early retirement on grounds of ill-health) who—

(a) returns to superannuable employment after that pension becomes payable; and

(b) on the day the member dies, the member is—

(i) under the age of 75,

(ii) in HSC employment,

(iii) no longer required to pay contributions pursuant to regulation 10(3) or (4) (Contributions by members) on, or after, 2nd April 2008, and

(iv) except where regulation 77(6) applies, not in receipt of a pension under any of regulations 12 to 16 in respect of the member’s later service.

(1D) The modifications referred to in paragraph (1C) are—

(a) in paragraph (3A), for “on the date of the member’s death” substitute “on the member’s last day of superannuable employment”;

(b) in paragraph (7), for “superannuable pay when the member died” substitute “final year’s superannuable pay”;

(c) in paragraph (12)—

(i) for “rate of superannuable pay when he died” substitute “final year’s superannuable pay”, and

(ii) for “at that time” substitute “when he died”.

(2) In this regulation, “previous service” and “later service” have the same meaning as in regulation 86(2).

(3) If this regulation applies, a lump sum payable on the member’s death shall be payable

in addition to any lump sum payable under regulation 19 (Member dies after pension becomes payable).

(3A) The additional lump sum referred to in paragraph (3) shall be equal to 5 times the

amount of the pension that would have been payable to the member had he left HPSS employment and been entitled to a pension based on his later service under regulation 12 (Normal retirement pension) on the date of the member’s death.

(4) If a member to whom this regulation applies leaves a surviving—

(a) spouse or civil partner; or

(b) nominated partner (if the member became entitled to the pension referred to in paragraph (1) on or after 1st April 2008),

the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (5) and (7).

(5) Subject to paragraph (9), the amount payable in respect of the member’s previous service shall be equal to the amount of the member’s pension (if any) that was payable when the member died.

(6) The amount referred to in paragraph (5) shall be paid for—

(a) the 3 months immediately following the member’s death; or

(b) the 6 months immediately following the member’s death if he leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(7) The amount payable in respect of the member’s later service shall be equal to the rate of the member’s superannuable pay when the member died.

(8) The amount referred to in paragraph (7) shall be paid for the 6 months immediately following the member’s death.

(9) Paragraph (5) shall not apply if the aggregate of the spouse’s or civil partner’s pension

and any child allowance which would otherwise be payable under these Regulations in respect of the member’s previous service is greater.

(10) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in

paragraph (6), the amount of the surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s previous service shall be the amount determined in accordance with regulation 25.

(11) Upon expiry of the 6 month period referred to in paragraph (8), the amount of the

surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s later service shall be equal to one-half of the rate of pension mentioned in paragraph (3A) that would have been payable to the member.

(12) If a member to whom this regulation applies leaves a dependent child but—

(a) does not leave a surviving spouse or civil partner; and

(b) a nominated partner pension is not payable in respect of his later service,

the child allowance, for the 6 months immediately following the member’s death, shall be equal to the aggregate of the member’s rate of superannuable pay when he died and the amount of the member’s pension (if any) that the member was receiving at that time.

(13) Subject to paragraph (14), except where a child allowance is payable at the rate mentioned in paragraph (12), the child allowance in respect of the member’s later service shall—

(a) be paid as a proportion of the rate of pension mentioned in paragraph (3A) that would have been payable to the member; and

(b) such proportion shall be determined in accordance with the circumstances as described in regulation 34 (Member dies in superannuable employment).

(14) If a member to whom this regulation applies leaves a child who was a dependent child

both at the time the member’s previous service was terminated and when the member died, any child allowance payable under these Regulations shall be calculated according to—

(a) regulation 35 (Member dies after pension becomes payable) in respect of the pension already in payment; and

(b) regulation 34 in respect of later superannuable employment.

(15) If the aggregate of the superannuable service used in the calculation referred to in

paragraph (14)(a) and that used in the calculation referred to in paragraph (14)(b) (“the member’s

aggregated service”) is less than 10 years, additional service will be allocated to the later period of superannuable employment for the purpose of the calculation under regulation 34.

(16) The amount of additional service referred to in paragraph (15) is the difference between 10 years superannuable service and the member’s aggregated service.

*Benefits on death in superannuable employment after pension under regulation 13A becomes payable*

**87A.**—(1) This regulation applies to a member in respect of whom a pension is payable under regulation 13A who—

(a) returns to superannuable employment after that pension becomes payable; and

(b) dies in superannuable employment.

(1A) Subject to the modifications set out in paragraph (1B), this regulation shall also apply to a member in respect of whom a pension is payable under regulation 13A who—

(a) returns to superannuable employment after that pension becomes payable; and

(b) on the day the member dies, the member is—

(i) under the age of 75,

(ii) in HSC employment,

(iii) no longer required to pay contributions pursuant to regulation 10(3) or (4) (Contributions by members), and

(iv) except where regulation 77(6) applies, not in receipt of a pension under any of regulations 12 to 16 in respect of the member’s later service.

(1B) The modifications referred to in paragraph (1A) are—

(a) in paragraph (6), for “on the date of the member’s death” substitute “on the member’s last day of superannuable employment”;

(b) in paragraph (10), for “rate of superannuable pay when the member died” substitute “final year’s superannuable pay”;

(c) in paragraph (15)(a), for “rate of superannuable pay when the member died” substitute “final year’s superannuable pay”;

(d) in paragraph (15)(b), for “at that time” substitute “when he died”.

(2) For the purposes of this regulation, the member’s “previous service” means the superannuable service in respect of which the member became entitled to receive a pension under regulation 13A (Ill health pension on early retirement) and the member’s “later service” means any superannuable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member’s benefits in respect of later service shall be calculated without regard to the member’s previous service.

(4) For the purposes of regulation 4 (Meaning of superannuable service) and regulation 10(3) and (4) (Contributions by members), the member’s previous service and later service shall be aggregated.

(5) If this regulation applies, a lump sum payable on the member’s death shall be payable in addition to any lump sum payable under regulation 19 (Member dies after pension becomes payable).

(6) The additional lump sum referred to in paragraph (5) shall be equal to 5 times the amount of the pension that would have been payable to the member had he left HSC employment and been entitled to a tier 2 pension based on the member’s later service under regulation 13A on the date of the member’s death.

(7) If a member to whom this regulation applies leaves a surviving spouse, civil partner or nominated partner, the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (8) and (10).

(8) Subject to paragraph (12), the amount payable in respect of the member’s previous service shall be equal to the amount of the member’s pension (if any) that was payable when the member died.

(9) The amount referred to in paragraph (8) shall be paid for—

(a) the 3 months immediately following the member’s death; or

(b) the 6 months immediately following the member’s death if the member leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(10) The amount payable in respect of the member’s later service shall be equal to the member’s rate of superannuable pay when the member died.

(11) The amount referred to in paragraph (10) shall be paid for the 6 months immediately following the member’s death.

(12) Paragraph (8) shall not apply if the aggregate of the spouse’s, civil partner’s or nominated partner’s pension and any child allowance which would otherwise be payable under these Regulations in respect of the member’s previous service is greater.

(13) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in paragraph (9), the amount of the surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s previous service shall be the amount determined in accordance with regulation 25 (Member dies after pension becomes payable).

(14) Upon expiry of the 6 month period referred to in paragraph (11), the amount of the surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s later service shall be equal to one-half of the rate of pension that would have been payable to the member had the member become entitled to the pension mentioned in paragraph (6).

(15) If a member to whom this regulation applies leaves a dependent child but does not leave a surviving spouse, civil partner, or nominated partner, the child allowance, for the 6 months immediately following the member’s death, shall be equal to the aggregate of—

(a) the member’s rate of superannuable pay when the member died; and

(b) the amount of the member’s pension (if any) that the member was receiving at that time.

(16) Subject to paragraph (17), except where a child allowance is payable at the rate mentioned in paragraph (15), the child allowance in respect of the member’s later service shall—

(a) be paid as a proportion of the rate of pension that would have been payable to the member had he become entitled to the pension mentioned in paragraph (6); and

(b) such proportion shall be determined in accordance with the circumstances as described in regulation 34 (Member dies in superannuable employment).

(17) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member’s previous service was terminated and when the member died, any child allowance payable under these Regulations shall be calculated according to—

(a) regulation 35 (Member dies after pension becomes payable) in respect of the pension already in payment; and

(b) regulation 34 in respect of later superannuable employment.

(18) If the aggregate of the superannuable service used in the calculation referred to in paragraph (17)(a) and that used in the calculation referred to in paragraph (17)(b) (“the member’s aggregated service”) is less than 10 years, additional service will be allocated to the later period of superannuable employment for the purpose of the calculation under regulation 34.

(19) The amount of additional service referred to in paragraph (18) is the difference between 10 years superannuable service and the member’s aggregated service.

**PART XI**

**GENERAL RULES ABOUT BENEFITS**

*Claims for benefits*

**88**.—(1) A person claiming to be entitled to benefits under these Regulations (“the claimant”) shall make a claim in writing to the Department in such form as it may from time to time require.

(2) Pursuant to such a claim, the claimant and the member’s employing authority (including any previous employing authority of the member) shall provide such—

(a) evidence of entitlement;

(b) authority or permission as may be necessary for the release by third parties of information in their possession relating to the member or, where relevant, the claimant; and

(c) other information the Department considers is relevant to the claim,

as the Department may from time to time require for the purposes of these Regulations.

(3) A claim referred to in paragraph (1) may be given to the Department by a person other than the claimant.

(4) The Department may accept any claim for benefits in relation to which this regulation applies, and any evidence, authority or permission given in connection with that claim, if it is made or given by means of an electronic communication that is approved by the Department for that purpose.

*Provision of information: continuing entitlement to benefit*

**88A—(1)** The Department may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Department with all or any of the following material—

(a) evidence of the person’s identity;

(b) the person’s contact details;

(c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Department may withhold all, or any part, of any benefit payable to that person.

*Deduction of tax*

**89**. The Department shall deduct from any payment under this Section of the scheme any tax for which he may be liable in respect of it.

*Deduction of tax: further provisions*

**89A**.—(1) Subject to paragraph (1A), if a person’s entitlement to a benefit under these Regulations—

(a) constitutes a benefit crystallisation event in accordance with section 216 of the 2004 Act; and

(b) a lifetime allowance charge under that Act is payable in respect of that event,

that charge shall be paid by the Department.

(1A) The member’s present or future benefits in respect of which any charge under paragraph (1) arises shall be reduced by an amount that fully reflects the amount of tax paid by the Department and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose.

(2) ***revoked***

(3) ***revoked***

(4) ***revoked***

(5) ***revoked***

(6) Where a person is entitled to a benefit under these Regulations he shall (whether or not he intends to rely on entitlement to transitional protection an enhanced lifetime allowance, or to enhanced protection) give to the Department such information as will enable the Department to determine—

(a) whether any lifetime allowance is payable in respect of the benefit and, if so,

(b) the amount of that charge.

(7) If a person applying for a benefit under these Regulations intends to rely on entitlement to an enhanced lifetime allowance by virtue of any of the provisions listed in section 256(1) of the 2004 Act (Enhanced lifetime allowance regulations), he shall give to the Department—

(a) the reference number issued by the Commissioners under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006(**a**) in respect of that entitlement;

(b) the information referred to in paragraph (6).

(7A) If a person claiming a benefit under these Regulations intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance with paragraph 14 of Schedule 18 to the 2011 Act or paragraph 1 of Schedule 22 to the Finance Act 2013, that person shall give to the Department—

(a) the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013 in respect of that entitlement; and

(b) the information referred to in paragraph (6).

(7B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014, that person must give to the scheme administrator—

(a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014 in respect of that entitlement, and

(b) the information referred to in paragraph (7).

(8) The information referred to in paragraph (6) or, as the case may be, paragraph (7), (7A) or (7B) shall be given to the Department—

(a) at the time the person makes a claim for a benefit; or

(b) where that information has not been provided at the time of making the claim, within such time as the Department specifies in writing.

(9) Where the person fails to provide all, or part of, the information referred to in paragraph (6) or, as the case may be, paragraph (7), (7A) or (7B) within the time limits specified by the Department where relevant, the Department may treat the whole of the benefit as a chargeable benefit and pay the charge on that basis.

(10) Subject to regulation 19(4)(b), where—

(a) a member has given notice to the Department in accordance with regulation 19(3) that a lump sum payable under that regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the 2004 Act, and

(b) has not revoked that notice,

the Department shall deduct tax at 55 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of that Act.

(10A) Where—

(a) a lump sum on death is payable in accordance with regulation 19 (Member dies after pension becomes payable); and

(b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death,

the Department shall deduct tax at the rate of 55 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 206 of the 2004 Act.

(10B) Where—

(a) the Department’s liability to pay a pension under regulation 12 (Normal retirement pension) is discharged by the payment of a lump sum in accordance with paragraph (4) of that regulation; and

(b) that lump sum payment is made to a member who has reached the age of 75,

the Department shall deduct tax at the rate of 55 per cent (or such other amount as applies from time to time) from the lump sum payable in accordance with section 205A of the 2004 Act.

(11) This paragraph applies to a member who—

(a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act, and

(b) meets the conditions specified in paragraph (1) of section 237B of that Act.

(12) A member to whom paragraph (11) applies may give notice in writing to the Department specifying that the Department and the member are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that member in accordance with section 237B of that Act.

(13) Unless the Department’s liability for an annual allowance charge referred to in paragraph (12) is discharged in accordance with section 237D of the 2004 Act—

(a) that annual allowance charge will be paid by the Department on behalf of the member, and

(b) that member’s present or future benefits in respect of which that charge arises shall be adjusted in accordance with section 237E of the 2004 Act and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose.

(14) Paragraph (15) applies to members who are practitioners or non-GP providers.

(15) The members referred to in paragraph (14) shall provide the information required by regulation 15A of the Registered Pension Schemes (Provision of Information) Regulations 2006 in respect of their benefits under the scheme in a manner prescribed from time to time by the Department.

(16) “Enhanced lifetime allowance” and “enhanced protection” shall be construed in accordance with the 2004 Act.

*Benefits not assignable*

**90**.—(1) Any assignment of, or charge on, or any agreement to assign or charge, any right to a benefit under this Section of the scheme is void.

(2) On the bankruptcy of any person entitled to a benefit under this Section of the scheme, no part of the benefit shall be paid to any trustee or other person acting on behalf of the creditors, except as provided for in paragraph (3).

(3) Where, following the bankruptcy of any person entitled to a benefit under this Section of the scheme, the court makes an income payments order under Article 283 of the Insolvency (Northern Ireland) Order 1989(income payments orders) that requires the Department to pay all or part of the benefit to the person’s trustee in bankruptcy, the Department shall comply with that order.

*Beneficiary who is incapable*

**91**.—(1) If the Department considers that a beneficiary is unable to look after his affairs (by reason of illness, mental disorder, minority or otherwise), it may use any amounts due to the beneficiary for his benefit or may pay them to some other person to do so.

(2) Payment under paragraph (1) to a person other than the beneficiary will discharge the Department from any obligation in respect of the amount concerned.

*Offset for crime, negligence or fraud*

**92**.—(1) If a loss to public funds occurs as a result of a member’s criminal, negligent or fraudulent act or omission, the Department may reduce any benefits or other amounts payable to, and in respect of, the member (other than guaranteed minimum pensions and benefits arising out of a transfer payment) by an amount equal to the loss.

(2) If the loss to public funds is greater than the value of the benefits or other benefits payable to or in respect of the member, a reduction under paragraph (1) may result in the benefits ceasing to be payable.

(3) The Department shall give the member a certificate specifying the amount of the loss to public funds and of the reduction in benefits.

(4) If the amount of the loss is disputed, no reduction in benefits will be made until the member’s obligation to make good the loss has become enforceable under the order of a court or arbitrator.

(5) Where the loss referred to in paragraph (1) is suffered by an employing authority, the amount of the reduction in benefits will be paid to the employing authority.

*Loss of rights to benefits*

**93**.—(1) Subject to paragraph (2), the Department may direct that all or part of any rights to benefit or other amounts payable to, or in respect of, a member be forfeited if the member is convicted of any of the following offences, committed before the benefit becomes payable –

(a) an offence in connection with employment to which this Section of the scheme applies which is certified by the Department either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service;

(b) an offence of treason;

(c) one or more offences under the Official Secrets Acts 1911 to 1989 for which the member has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(1A) Subject to paragraph (2), the Department may also direct that all or part of any rights to benefits or other amounts payable in respect of a member be forfeited where such benefits or amounts are payable to a person who is –

(a) the member’s widow, widower, surviving nominated partner or surviving civil partner;

(b) a dependant of the member;

(c) a person not coming within sub-paragraph (a) or (b) who is specified in a notice or nomination given under regulation 22 (Payment of lumps sum); or

(d) a person to whom such benefits or amounts are payable under the member’s will or on his intestacy,

and that person is convicted of the offence of murder or manslaughter of that member or of any other offence of which the unlawful killing of that member is an element.

(2) A guaranteed minimum pension may be forfeited only if paragraph 1(b) or (c) applies.

*Commutation of trivial pensions*

**94**.—(1) Where a person has become entitled to a pension of a trivial amount, the Department may pay to that person a lump sum representing the capital value of that pension and of any benefits that might otherwise have become payable on that person’s death.

(2) Any lump sum payable under this regulation will be calculated by the Department, after taking advice from the Scheme Actuary.

(3) A pension may be treated as trivial only if all benefits payable under the scheme to the person concerned are of an amount consistent with—

(a) the contracting-out and preservation requirements of the 1993 Act; and

(b) either—

(i) the lump sum rule and lump sum death benefit rule, or

(ii) the requirements of regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payments by larger pension schemes).

(4) ***revoked***

(5) A payment made under paragraph (1) shall discharge the Department’s liability in respect of that pension and of any benefits that might otherwise have become payable on that person’s death.

**PART XII**

**ADMINISTRATIVE MATTERS**

*Extension of time limits*

**95**. In any particular case, the Department may extend any time limit mentioned in these Regulations.

*Determination of questions*

**96**. Any questions arising under these Regulations as to rights or liabilities of any person shall be determined by the Department and any dispute shall be resolved by the Department in accordance with the dispute resolution procedure issued from time to time by it in conformity with Article 50 of the Pensions (Northern Ireland) Order 1995.

*Accounts and actuarial reports*

**97**.—(1) The Department must keep accounts of the scheme in a form approved by the Department of Finance and Personnel.

(2) The accounts are to be open to examination by the Comptroller and Auditor General.

(3) In respect of a member, an employing authority must keep a record of all—

(a) contributions paid under regulations 10, 72 and 73A;

(b) contributions due under regulations 10, 72 and 73A but unpaid;

(c) contributions paid under regulation 11(1);

(d) contributions due under regulation 11(1) but unpaid;

(e) hours, half-days or sessions constituting part-time superannuable employment for the purposes of regulation 78;

(f) superannuable pay;

(g) absences from work referred to in regulations 65 and 66;

(h) commencements and terminations of superannuable employment;

(i) reasons for terminations of superannuable employment.

(4) That record is to be in a manner approved by the Department.

(5) Except where the Department waives such requirement, an employing authority must provide the Department with a composite statement in respect of all scheme members covering all the matters referred to in paragraph (3) within 2 months of the end of a scheme year; this is subject to Schedule 2.

(6) Where an employing authority has provided the information in accordance with paragraph (5) and subsequently there is then a change to any of that information, that employing authority must, within 1 month of the change, provide the Department with the revised information.

(7) In respect of each scheme year an employing authority must, within 2 months of a request and in a manner prescribed by the Department, provide the Department with details of the total contributions paid for all scheme members under regulations 10, 11, 72 and 73A.

(8) Where an employing authority has provided the information requested at paragraph (7) and subsequently there is a change in those details, that employing authority must, within 1 month of the change, provide the Department with the revised details.

(9) An employing authority must, no later than 1 month before the beginning of each scheme year, and in a manner prescribed by the Department, provide the Department with a statement of estimated total contributions due under regulations 10, 11, 72 and 73A for that scheme year.

*Cost sharing*

**97A**. Revoked (Technical/2013)

*Interest on late payment of benefits and refunds of contributions*

**97B.**—(1) This regulation applies if the whole or part of an amount to which this regulation applies is not paid by the end of the period of one month beginning with the due date.

(2) This regulation applies to any amount payable by way of a pension, lump sum or refund of contributions under this Section of the Scheme (other than any amount due under regulation 11) or interim or substitute award.

(3) The Department must pay interest on the amount of a pension, lump sum, refund of contributions or an interim or substitute award which is unpaid (“the unpaid amount”) to the person to whom it should have been paid unless the Department is satisfied that the unpaid amount was not paid on the due date because of some act or omission on the part of the member or other person to whom it should have been paid.

(4) The interest on the unpaid amount is calculated at the base rate on a day to day basis from the due date for the amount to the date of its payment and compounded with three-monthly rests.

(5) For the purposes of this regulation, except where paragraph (6) applies, “due date”, in relation to an unpaid amount (other than an unpaid amount in respect of an interim or substitute award), means—

(a) in the case of an amount in respect of a pension or lump sum payable to a member under Part III (Benefits), the day immediately following that of the member’s retirement from superannuable employment,

(b) in the case of an amount in respect of a pension payable on a member’s death, the day after the date of death,

(c) in the case of an amount in respect of a lump sum under Part III (Lump sum on death) that is payable to the member’s personal representatives, the earlier of—

(i) the date on which probate or letters of administration were produced to the Department, and

(ii) the date on which the Department was satisfied that the lump sum may be paid as provided in regulation 22(10), and

(d) in the case of an amount in respect of any other lump sum under Part III, the day after the date of the member’s death, and

(e) in the case of an amount in respect of a refund of contributions, the day after that on which the Department received from Her Majesty’s Commissioners of Revenue and Customs the information required for the purposes of calculating the amount to be subtracted under regulation 50(4) or (5); and

(6) The due date for an unpaid amount—

(a) referred to in paragraph (5) in respect of which the Department was not in possession of all the information necessary for the calculation of the amount of the pension, lump sum or refund of contributions referred to in that paragraph on the date which would, in accordance with paragraph (5) be the due date;

(b) in respect of an interim or substitute award,

shall be the first day on which the Department was in possession of all the information necessary to calculate that pension, lump sum, refund of contributions or interim or substitute award.

(7) In this regulation—

(a) “interim or substitute award” means—

(i) any amount paid by way of an interim payment calculated by reference to an expected benefit under this Section of the Scheme pending final calculation of the full value of that benefit,

(ii) any amount paid that increases the amount of an earlier payment due to a backdated or subsequent increase in superannuable pay; and

(iii) any amount paid that increases the amount of an earlier payment due to the payment of a tier 2 ill-health pension under regulation 13A paid to a member in substitution for a tier 1 ill-health pension under that regulation following a determination by the Department under regulation 13B.

(b) “base rate” means the Bank of England base rate—

(i) announced from time to time by the Monetary Policy committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

(ii) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

*Interest and Administration Charges: Late paid contributions*

**97C.**—(1) For the purposes of this regulation there is a “chargeable event” where an employing authority fails to pay, by the dates therein specified, the full amount of contributions it is required to pay under any of the following provisions—

(a) regulations 10, 11, 11A, 70, 71, 72, 73A, 73C, 73D;

(b) paragraph 10 or 23 of Schedule 2.

(2) Where there is a chargeable event, the amount of contributions that should have been paid under a provision referred to in paragraph (1) is to be determined by the Department having regard to—

(a) the amount of contributions historically paid pursuant to the provision in question by that employing authority;

(b) any reasons or explanation provided by the employing authority for the change in the amount of contributions (if any) it has paid pursuant to that provision;

(c) any other factors that the Department considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions determined under paragraph (2) and an administration charge in respect of each such event.

(4) Where the Department becomes aware of a chargeable event, the Department shall give the employing authority a written notice specifying—

(a) the date of that event;

(b) the amount of unpaid contributions determined under paragraph (2);

(c) the amount of standard interest rate payable in respect of that event;

(d) the amount of administration charge payable in respect of that event;

(e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Department considers the case to be exceptional and considers it appropriate for that amount to be paid over a period, and by a number of instalments, determined by the Department.

(6) Where the Department considers the case to be exceptional, nothing in the preceding paragraphs prevents the Department from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) In the case of arrears in respect of the scheme year 2015-16 and subsequent years, the standard rate of interest is the aggregate of the percentage (if any) by which the consumer prices index for the February before the scheme year in which the chargeable event arose is higher than it was for the previous February plus 3%, compounded at annual intervals.

(8) In respect of arrears in respect of the scheme year 2015-16 and subsequent years, the administration charge is £75.

(9) In any particular case the Department may direct that, for the purposes of this regulation, “employing authority” includes one or more of, a successor, transmittee or assignee of an employing authority’s business or functions.

*Benefit information statements*

**97D.**—(1) The Department must provide a benefit information statement to each member in accordance with—

(a) section 14 (Information about benefits) of the 2014 Act; and

(b) any Department of Finance and Personnel directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Department is only required to provide a member with one benefit statement per scheme year.

(4) A benefit information statement provided pursuant to paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.

**PART XIII**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Options to members detrimentally affected by these regulations*

**98**.—(1) This regulation applies in relation to any pension which is payable under these Regulations, to or in respect of a person who, having served in an employment or office, has service which qualifies persons to participate in the benefits provided under the previous Regulations, and has ceased to serve therein or died before these Regulations come into operation.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than he would have been if the provision had not applied, that person may elect that the provision shall not so apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be served on the Department within 6 months of the coming into operation of these Regulations.

(4) An election pursuant to paragraph (2) shall have effect in relation to the pension referred to in paragraph (1) only to the extent that such pension has accrued by virtue of contributions made and periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into operation of these Regulations) and in determining entitlement to, and the amount of, the pension to that extent such person shall be treated as if he had never recommenced superannuable employment at any time after that cessation (or, as the case may be, the last such cessation).

*Revocations and savings*

**99**.—(1) The Regulations specified in Column 1 of the Table to Schedule 3 are revoked to the extent specified in Column 2 of that Table.

(2) Anything done under or by virtue of any regulation revoked by these Regulations, if it could have been done under or for the purpose of the corresponding provision of these Regulations shall be deemed to have been done under or by virtue of the corresponding provision of these Regulations and anything begun under, or by virtue of any such regulation may be continued under these Regulations as if begun under these Regulations.

(3) Where, prior to the coming into operation of these Regulations, any of the following provisions of the pervious regulations applied in relation to a member, namely-

1. regulation 9 (additional benefits for certain transferred officers);
2. regulations 27 to 30 (continuation of previous arrangements in respect of additional contributory payments);
3. regulation 32(7) (part-time service before 15 December 1966 in respect of certain practitioners);
4. regulations 37 to 39 (benefits in the case of certain re-employed pensioners);
5. regulations 40 to 47 (optants and certain other arrangements);
6. regulations 51 and 52 (modification of benefits and obligations in connection with the National Insurance Acts (Northern Ireland) 1946 and 1966);
7. regulation 71 (part-time specialists with service before 1st April 1967);
8. regulation 72 (continuation of contracts or policies of insurance in certain cases); and
9. regulation 77 (provisions relating to contributions on a former higher rate of remuneration);

any rights and liabilities relating to that member by virtue of those provisions shall be deemed to continue to apply notwithstanding the revocation of those provisions.

Sealed with the Official Seal of the Department of Health and Social Services on 15th March 1995

(L.S.) L. Frew

Assistant Secretary

The Department of Finance and Personnel hereby consents to the foregoing regulations.

Sealed with the Official Seal of the Department of Finance and n on 15th March 1995.

(L.S.) J McKeown

Assistant Secretary

SCHEDULE 1 Regulations 70 and 71

**Purchase of additional service and unreduced retirement lump sum**

TABLE 1 (Regulation 70(3))

**Paying for additional service by a single payment**

|  |  |
| --- | --- |
| *Member’s age when employing*  *authority receives*  *notice of election*  *(1)* | *Cost per £100 of remuneration for*  *each year of additional service*  *(2)* |
| 20  21  22  23  24  25  26  27  28  29  30  31  32  33  34  35  36  37  38  39  40  41  42  43  44  45  46  47  48  49  50  51  52  53  54  55  56  57 | £  25.20  24.70  24.20  23.70  23.20  22.70  22.20  21.80  21.40  21.10  20.90  20.70  20.50  20.30  20.10  20.00  20.00  20.00  20.00  20.00  20.00  20.00  20.00  20.00  20.00  20.10  20.30  20.50  20.70  20.90  21.00  21.00  21.00  21.00  21.00  21.10  21.30  21.60 |

|  |  |
| --- | --- |
| *Member’s age when employing*  *authority receives*  *notice of election*  *(1)* | *Cost per £100 of remuneration for*  *each year of additional service*  *(2)* |
| 58  59  60  61  62  63  64  65  66  67  68  69 | *£*  21.90  21.90  21.70  21.50  21.30  21.10  21.00  20.80  20.30  19.70  19.10  18.50 |

TABLE 2 (Regulation 71(3))

**Paying for unreduced retirement lump sum by a single payment**

|  |  |
| --- | --- |
| *Member’s age when employing authority receives notice of election*  *(1)* | *Cost per £100 of remuneration for*  *each year of service in respect of which*  *unreduced retirement lump sum is*  *bought*  *(2)* |
| 20 & under  21  22  23  24  25  26  27  28  29  30  31  32  33  34  35  36  37  38  39  40  41 | *£*  2.97  2.91  2.85  2.79  2.73  2.67  2.61  2.56  2.51  2.48  2.46  2.44  2.41  2.39  2.36  2.35  2.35  2.35  2.35  2.35  2.35  2.35 |

|  |  |
| --- | --- |
| *Member’s age when employing*  *authority receives*  *notice of election*  *(1)* | *Cost per £100 of remuneration for*  *each year of service in respect of which*  *unreduced retirement lump sum is*  *bought*  *(2)* |
| 42  43  44  45  46  47  48  49  50  51  52  53  54  55  56  57  58  59  60  61  62  63  64  65  66  67  68  69 | *£*  2.35  2.35  2.35  2.36  2.38  2.41  2.44  2.46  2.47  2.47  2.47  2.47  2.47  2.48  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50  2.50 |

TABLE 3 (Regulation 72(5))

**Paying for additional service by regular additional contributions**

|  |  |  |  |
| --- | --- | --- | --- |
| *Members age at next birthday after employing authority receives notice of election*  *(1)* | *Percentage of superannuable pay for each complete year of additional service*  *Birthday to which member has elected to pay contributions*  *(2)*  55 60 65 | | |
| 20  21  22  23  24  25  26  27  28  29  30  31  32  33  34  35  36  37  38  39  40  41  42  43  44  45  46  47  48  49  50  51  52  53  54  55  56  57  58  59  60  61  62  63 | .61  .64  .67  .70  .74  .78  .82  .86  .90  .94  .98  1.02  1.07  1.12  1.17  1.22  1.28  1.35  1.43  1.51  1.60  1.70  1.83  2.00  2.20  2.42  2.69  3.02  3.45  4.02  4.80  6.04  8.05  12.18 | .50  .52  .54  .56  .58  .60  .62  .64  .66  .68  .70  .72  .75  .78  .81  .85  .89  .93  .98  1.03  1.09  1.15  1.22  1.30  1.39  1.48  1.58  1.70  1.85  2.03  2.25  2.53  2.86  3.26  3.80  4.58  5.77  7.77  12.06 | .36  .38  .40  .42  .44  .46  .48  .50  .52  .54  .56  .58  .60  .62  .64  .67  .69  .72  .74  .77  .80  .83  .87  .91  .95  1.00  1.06  1.13  1.21  1.29  1.38  1.48  1.60  1.74  1.90  2.08  2.30  2.56  2.92  3.40  4.10  5.20  6.97  10.42 |

TABLE 4 (Regulation 72(5))

**Paying for unreduced retirement lump sum by regular additional contributions**

|  |  |  |  |
| --- | --- | --- | --- |
| *Members age at next birthday after employing authority receives notice of election*  *(1)* | *Percentage of superannuable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought*  *(2)*  *Birthday to which member has elected to pay contributions*  55 60 65 | | |
| 20 & under  21  22  23  24  25  26  27  28  29  30  31  32  33  34  35  36  37  38  39  40  41  42  43  44  45  46  47  48  49  50  51  52  53  54  55  56  57  58 | .07  .07  .08  .08  .09  .09  .10  .10  .11  .11  .12  .12  .13  .13  .14  .14  .15  .16  .17  .18  .19  .20  .22  .24  .26  .29  .32  .36  .41  .47  .56  .71  .95  1.43 | .06  .06  .06  .07  .07  .07  .07  .08  .08  .08  .08  .08  .09  .09  .10  .10  .11  .11  .12  .12  .13  .13  .14  .15  .16  .17  .19  .20  .22  .24  .27  .30  .34  .38  .45  .54  .68  .91  1.42 | .04  .04  .05  .05  .05  .05  .06  .06  .06  .06  .07  .07  .07  .07  .08  .08  .08  .08  .09  .09  .09  .10  .10  .11  .11  .12  .12  .13  .14  .15  .16  .17  .19  .20  .22  .24  .27  .30  .34 |

|  |  |  |  |
| --- | --- | --- | --- |
| *Members age at next birthday after employing authority receives notice of election*  *(1)* | *Percentage of superannuable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought*  *(2)*  *Birthday to which member has elected to pay contributions*  55 60 65 | | |
| 59  60  61  62  63 |  |  | .40  .48  .61  .82  1.23 |

SCHEDULE 2 Regulation 74

**Medical and dental practitioners**

*Additional definitions used in this Schedule*

**1.** In this Schedule-

“assistant practitioner” means—

(a) in the case of a registered medical practitioner—

(i) a GP performer who is not a GP provider but who is—

(aa) employed (whether under a contract of service or for services) by a GMS

practice, an APMS contractor, an OOH provider or a Health and Social

Services Board, and

(bb) who in that employment is engaged wholly or mainly in assisting his

employer in the discharge of the employer’s duties as a GMS practice, an

APMS contractor, an OOH provider or a Health and Social Service Board;

or

(ii) a registered medical practitioner who is participating in a Doctor’s Retainer Scheme;

(b) in the case of a dental practitioner, means a practitioner whose name is included in a dental list

prepared by each Health and Social Services Board pursuant to regulation 4 of the Health and

Personal Services General Dental Services Regulations (Northern Ireland) 1993 employed by a

principal practitioner, who in that employment is wholly or mainly engaged in assisting his

employer in the discharge of the employer’s duties as a registered dentist;

“Board and advisory work” means—

(a) work undertaken as a member of the Board of an employing authority, which is not a GMS

practice, an APMS contractor or an OOH provider; or

(b) advisory work commissioned by and undertaken on behalf of such an authority, where it is

connected to the authority’s role in performing, or securing the delivery of, primary medical

services or associated management activities or similar duties,

but which is not in itself the performance of primary medical services, and payment

for which is made by that authority directly to the person carrying out that work;

“commissioned services” means medical services provided under a contract between—

(a) a GP performer, a GMS practice, an APMS contractor and an OOH provider; and

(b) either—

(i) a special health and social services agency, which relates to the provision of health

services;

(ii) the Department or a Health and Social Services Board under Article 14A of the 1972

Order (which relates to arrangements for provision of health services by other bodies or

persons); or

(iii) a Health and Social Services Trust under paragraph 13 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 (Specific Powers),

which is for the provision of health services.

“Doctors' Retainer Scheme" has the same meaning as given in paragraph 39 of the Statement published in accordance with regulation 32 of the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973;

“locum practitioner” means—

(a) for the period beginning with and including 1st April 2001 to 31st March 2002, a registered

medical practitioner other than a trainee practitioner who—

(i) is not a principal practitioner, associate general practitioner, an assistant practitioner or

a person who is being treated as a practitioner under regulation 83A (participants in

pilot schemes); and

(ii) is engaged under a contract for services with a practitioner otherwise than in pursuance

of a commercial arrangement with an agent, to deputise or assist in the provision of

general or personal medical services under Part IV of the 1972 Order.

(b) From the period beginning with and including 1st April 2002 to 31st March 2004, a

registered medical practitioner, other than a trainee medical practitioner, who is engaged

under a contract for services with a practitioner, otherwise than in pursuance of a commercial

arrangement with an agent, to deputise or assist in the provision of general medical services

or personal medical services under Part IV of the 1972 Order.

(c) a registered medical practitioner (other than a trainee practitioner) whose name is included in

a medical performers’ list and who is engaged, otherwise than in pursuance of a commercial

arrangement with an agent, under a contract of services by—

(a) a GMS practice;

(b) an APMS Contractor;

(c) an OOH provider, or

(d) a Health and Social Services Board

to deputise or assist temporarily in the provision of essential services, additional

services, enhanced services, dispensing services, OOH services, commissioned services

and certification services (or any combination thereof).

“officer service” means, subject to paragraph 9 (officer service treated as practitioner service), service as an officer;

“superannuable earnings” has the meaning given in paragraphs 3 to 8;

“practitioner income” has the meaning given in paragraph 3(2);

“practitioner service” means, subject to paragraph 9 (officer service treated as practitioner service), superannuable service as a practitioner;

“principal practitioner” means—

(a) in the case of a medical practitioner, a GP provider;

(b) in the case of a dental practitioner, a registered dentist who is included in a list prepared in

accordance with regulation 4(1) of the Health and Personal Social Services General Dental

Services Regulations (Northern Ireland) 1993;

“uprated earnings” is to be construed in accordance with paragraph 11(2).

*Application of Regulations with modifications*

**2.**—(1) These Regulations, subject to the modifications described in this Schedule, apply to members who are or have been practitioners as if they were officers employed by the Agency, or, in the case of a locum practitioner, the host Health and Social Services Board and references to an employing authority shall, in relation to a practitioner be taken as a reference to the Agency, or, in the case of a locum practitioner, the host Health and Social Services Board.

1. Notwithstanding any other provision of these Regulations, a practitioner who wishes to

contribute to this Section of the scheme must do so in respect of all of his work as a practitioner other than any period or periods of work as a locum practitioner.

*Membership: locum practitioners*

**2A.—**(1) Regulation 6 (Membership of to this Section of the scheme) does not apply to locum practitioners.

(2) A locum practitioner may apply to join to this Section of the scheme by sending an application to the employing authority and submitting such evidence relating to his service as a locum practitioner; this is subject to sub-paragraph (10) of paragraph 23 and the contributions payable in respect of it as are required by the authority.

(3) On receiving such an application, such evidence and such contributions, the employing authority must submit the application to the Department.

(4) ***revoked***

(5) No application may be made under subparagraph (2) in respect of a period of engagement as a locum practitioner ending earlier than ten weeks before the date of application.

*Meaning of “superannuable” earnings*

**3.**—(1) In the case of a principal practitioner and a non-GP provider who is not in receipt of a salary, wages, fees or any other regular payment in respect of his employment as an officer by virtue of the application of these Regulations to him as if he were such an officer under regulation 74 “superannuable earnings” means practitioner income less–

(a) any sum on account of practice expenses; and

(b) in the case of a dental practitioner the superannuable earnings, to the extent allowed by the Department, of any assistant practitioner in the practitioner’s employment or, in the case of an assistant practitioner who is not in superannuable employment under the scheme, the amount that would have been taken to be his superannuable earnings if he were in such superannuable employment.

(2) Subject to sub-paragraph (3), for the purposes of this paragraph, “practitioner income” means,-

(a) income which accrues to the practitioner or the non-GP provider which is derived from—

(i) a GMS contract,

(ii) an APMS contract,

(iii) payments from, or to a practitioner who is a GMS practice or an APMS contractor in

respect of the performance of certification services or commissioned services,

(iv) his engagement by a Health and Social Services Board to assist in the provision of

primary medical services under Article 56(2) of the 1972 Order,

(v) in the case of a practitioner, the provision of locum services,

(vi) payments made to a principal practitioner by an OOH provider or other employing

authority providing OOH services in respect of the performance of primary medical

services, commissioned services and certification services,

(vii) payments made to a principal practitioner by an employing authority in respect of

general dental services, general ophthalmic services or pharmaceutical services

provided by the practitioner,

(viii) practice based work carried out in educating or training, or organising the education

or training of, medical students or practitioners,

(b) any charges collected from a patient in respect of the services mentioned in sub-paragraph (a) which the practitioner is authorised by or under any enactment to retain, other than charges authorised by regulations made under 98 of, and Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972 (charges for more expensive supplies of dental appliances), and

(c) any sums paid to the practitioner out of a fund determined by reference to the number of beds in a hospital.

(d) in the case of a practitioner, allowances and any other sums (but excluding payments made to

cover to cover expenses) paid in respect of Board and advisory work.

(3) If the practitioner is in concurrent employment as an officer, or with a local authority or university, or as a civil servant, or in any other employment that the Department may in any particular case allow “practitioner income” does not include any amounts for which the practitioner is required to account to the employer as a term or condition of that employment.

(4) In sub-paragraph (2)(a) locum services shall have the same meaning as for the purposes of paragraph 6.

*Calculating “superannuable earnings” of practitioners in partnership*

**4.**—(1) In the case of practitioners practising in partnership (with or without a non-GP provider who is a partner in a partnership), the superannuable earnings of each principal practitioner and non-GP provider who is a partner in a partnership shall be calculated by aggregating the superannuable earnings of each (including for this purpose, any amount that would constitute superannuable earnings in the case of any of them who are not included in this Section of the scheme) and subject to sub-paragraph (2), dividing the total equally by reference to the number of such partners.

(2) Where the principal practitioners and any non-GP providers who are partners in a partnership do not share equally in the partnership profits, they may elect that each partner’s superannuable earnings shall correspond to each partner’s share of the partnership profits.

(3) Where a registered medical practitioner practising in partnership also has earnings in respect of HPSS employment other than as a practitioner, the partners that elect the superannuable earnings of that practitioner, as determined in accordance with Sub-paragraphs (1) or (2), shall be reduced by the amount of those earnings and the superannuable earnings of each of them (including that practitioner) be then increased in proportion to their respective shares of the partnership profits.

(4) The calculations described in sub-paragraphs (2) and (3) will be made by the Health and Social Services Board to which the partners are required to give notice of their election in accordance with paragraph 5.

*Elections relating to the calculation of “superannuable earnings” in partnership*

**5.**—(1) Practitioners and any non-GP providers who are partners in any partnership must exercise the election described in sub-paragraphs 4(2) and (3) by giving notice in writing to their host Health and Social Services Board.

(2) Dental practitioners must give such notice to the employing authority by which they wish the necessary action to be taken.

(3) ***revoked***

(4) The notice must be signed by all the principal practitioners and non-GP providers in the partnership and must state as a fraction each practitioner’s and non-GP provider’s share in the partnership profits. In the case of medical practitioners, the notice must state the name of every employing authority on whose list the name of any practitioner in the partnership is included.

(5) If medical practitioners wish account to be taken of remuneration received in respect of concurrent employment as officers, the notice must state, in respect of every practitioner in the partnership who is so employed, the name of the employing authority and the superannuable pay received in respect of that employment. The notice must also include an undertaking by the practitioners to give notice in writing to the authority concerned at the end of each financial year, stating the superannuable pay received, in that financial year, in respect of employment as an officer by each practitioner in the partnership who is so employed.

(6) Any notice given under this paragraph will take effect from the date agreed between the practitioners and the employing authority concerned. If no agreement is reached, the date will be decided by the Department.

(7) Any notice given under this paragraph may be cancelled or amended by a subsequent notice in writing signed by all the practitioners in the partnership. A notice will continue in effect until cancelled, or (if earlier) there is a change in the partnership.

*Meaning of “superannuable earnings” in relation to other practitioners*

**6.—**(1) In the case of an assistant practitioner “superannuable earnings” means—

(a) all salary, wages, fees and other regular payments paid to the practitioner by an employing

authority in respect of the performance of essential services, additional services, enhanced

services, dispensing services, OOH services, commissioned services, certification services,

general dental services or pharmaceutical services, but does not include bonuses or payments

made to cover expenses;

(b) allowances and other sums (but excluding payment made to cover expenses) paid by an

employing authority in respect of Board and advisory work; and

(c) practise based work carried out in educating or training, or organising the education or training

of, medical students or practitioners.

(2) In the case of-

(a) a dental practitioner providing piloted services, superannuable earnings means all fees and other regular payments paid to the practitioner in respect of the provision of piloted services, but does not include bonuses or payments made to cover expenses or any payment made to the practitioner in respect of the provision of locum services;

(b) a practitioner employed as a dental pilot scheme employee, or to whom regulation 83A(1)(b)

applies, "superannuable earnings" means all salaries or wages paid to the practitioner in respect

of employment as a practitioner, but does not include bonuses or payments made to cover

expenses or any payment made to the practitioner in respect of the provision of

locum services.

(3) In the case of a locum practitioner “superannuable earnings” means all fees and other payments made to the locum practitioner in respect of the provision of locum services (but excluding payments made to cover expenses or for overtime), less such expenses as are deductible in accordance with guidance laid down by the Department.

(4) In this paragraph, references to the provision of locum services, in relation to a practitioner, are to primary medical services, commissioned services or pharmaceutical services performed by a practitioner engaged by an employing authority under a contract for services to deputise for a registered medical practitioner or to temporarily assist in the provision of such services.

*Exclusions and deductions from “superannuable earnings” – all practitioners*

**7.** Any sum that is withheld or otherwise recovered from a practitioner under the Health and Personal Social Services (Services Committees) Regulations (Northern Ireland) 1973 will be excluded or deducted from the practitioner’s superannuable earnings in such manner and to such extent as the Department may approve.

*Limit on “superannuable earnings” – dental practitioners*

**8.**—(1) A dental practitioner’s superannuable earnings in any financial year ending before 1st April 1995 are subject to the upper limit specified in the following table for the period in which the year falls.

|  |  |
| --- | --- |
| *Period* | *Upper limit for each year* |
| 1st April 1950 to 31st March 1966 | £3,500 |
| 1st April 1966 to 31st March 1972 | £6,000 |
| 1st April 1972 to 31st March 1975 | £10,000 |
| 1st April 1975 to 31st March 1978 | £15,000 |
| 1st April 1978 to 31st March 1982 | £21,000 |
| 1st April 1982 to 31st March 1985 | £33,000 |
| 1st April 1985 to 31st March 1988 | £40,000 |
| 1st April 1988 to 31st March 1989 | £45,000 |
| 1st April 1989 to 31st March 1990 | £54,000 |
| 1st April 1990 to 31st March 1991 | £58,000 |
| 1st April 1991 to 31st March 1992 | £65,000 |
| 1st April 1992 to 31st March 1993 | £72,000 |
| 1st April 1993 to 31st March 1994 | £73,000 |
| 1st April 1994 to 31st March 1995 | £75,000 |
|  |  |

1. A dental practitioner’s superannuable earnings in any financial year starting after the

31st March 1995 and ending before the 1st April 2008 are subject to the upper limit specified by the Department for that year.

(3) In the case of a dental practitioner employed by persons carrying on a deceased practitioner’s dentistry business, superannuable earnings cannot exceed the total of the amount paid to him by those persons, plus any amounts paid to him by an Employing Authority that those persons allow him to retain.

*Officer service treated as practitioner service*

**9.**—(1) Subject to sub-paragraph (3), if a member does not have more than 10 years’ officer

service on first becoming a practitioner, the member’s officer service before first becoming a practitioner will be treated as practitioner service.

(2) For the purpose of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (1), the member’s superannuable pay in respect of that officer service –

(a) may be disregarded and his uprated earnings increased by the same proportion as his

practitioner’s service is increased by virtue of the officer service being treated as practitioner

service under sub-paragraph (1); or

(b) may be treated as superannuable earnings,

whichever is the more favourable to him.

(3) Sub-paragraph (1) does not apply where -

1. the member first became a practitioner before the 31st March 1977 and the benefits calculated under the corresponding provision as it applied immediately before that date would have been greater; or
2. the member’s pension in respect of total officer service would otherwise be greater than the member’s pension in respect of total practitioner service (where “pension” includes, in each case, any increases payable under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 and the member’s total pension would be reduced if the member’s officer service before first becoming a practitioner were treated as practitioner service.

(4) The calculation described in sub-paragraph (3)(b) will be made when the member’s pension under this Section of the scheme becomes payable. If the member dies before his pension becomes payable the calculation will be made at the date of his death and by reference to the pension which would have become payable under regulation 12 (Normal retirement pension) or 49 (Preserved pension) if he had left superannuable employment immediately before that date.

(5) When calculating the member’s total officer service and total practitioner service for the purposes of sub-paragraph (3)(b), any increase in the member’s service by virtue of regulation 13 or 13A, and any additional service bought as described in regulation 67 (Right to buy additional service), will be ignored.

(5A) Where a member has more than 10 years officer service before first becoming–

(a) a practitioner;

(b) ***revoked***

the member’s officer service before first becoming such a practitioner may be treated as practitioner service if it would be more favourable to him.

(5B) For the purpose of calculating any benefits in respect of officer service that is treated as practitioner service under sub-paragraph (5A), the member’s superannuable pay in respect of that officer service shall be treated as superannuable earnings.

(5C) If—

(a) any part of the period of a member’s officer service is treated as practitioner service for the

purposes of sub-paragraph (1) or (5A) (“the converted service”) and;

(b) any part of the converted service has been credited to the member as a result of a transfer-in

under regulations 61 or 62 (but not regulation 81(2)) (“the converted service credit”),

the amount of superannuable pay deemed to be received in respect of the converted service

credit will be calculated in accordance with paragraph 18.

(6) Subject to sub-paragraph (8), if a member has, in total, less than on year’s officer service on the last occasion on which he ceases to be a practitioner before his pension under this Section of the scheme becomes payable that officer service will be treated as practitioner service.

(6A) Subject to sub-paragraph (8), if a member has in total 1 year’s officer service or more on the last occasion on which he ceases to be a practitioner before his pension under this Section of the scheme becomes payable, that officer service may be treated as practitioner service if it would be more favourable to him.

(6B) Any officer service which is treated as practitioner service by virtue of subparagraph (6) or (6A) shall include any periods of officer service which are concurrent with periods of practitioner service.

(7) For the purpose of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (6) or (6A), the member’s superannuable pay in respect of that officer service will be treated as superannuable earnings.

(8) If the member has officer service before first becoming a practitioner, sub-paragraph (1) will be applied before sub-paragraph (6) or (6A) and-

1. neither sub-paragraph (6) or (6A) will apply to any officer service that is treated as practitioner service under sub-paragraph (1) or (5A); and

(b) any officer service that is treated as practitioner service under sub-paragraph (1) will be ignored for the purpose of deciding whether sub-paragraph (6) or (6A) applies.

(9) If any member with practitioner service works in employment as an officer for less than 1 year after last ceasing to be a practitioner, any officer service that is attributable to that employment will be treated as practitioner service.

(10) For the purpose of calculating any benefit in respect of officer service that is treated as

practitioner service under sub-paragraph (9), the member’s superannuable pay in respect of that officer service will be treated as superannuable earnings.

(11) Where the officer service mentioned in sub-paragraph (6), sub-paragraph (6A) or sub-paragraph (9) has been credited as a result of a transfer under regulation 60 (Member’s right to transfer accrued rights to benefits to this Section of the scheme), the superannuable pay in respect of it shall be deemed to be the superannuable pay by reference to which the additional period of service was calculated under regulation 61(3) or 62(2), whichever is applicable.

*Locum practitioners: breaks between contracts*

**9A.**—(1) Paragraph 4A of regulation 5 does not apply and this paragraph applies instead where a locum practitioner ceases to be engaged as such a practitioner and so ceases to be treated as being in superannuable employment and is re-engaged as such a practitioner before the expiry of a period not exceeding three months from the day on which he so ceases.

(2) For the purposes of these Regulations—

(a) he is treated as continuing to be in qualifying service during the period not exceeding 3 months

whilst he is not so engaged and as not being required to rejoin this Section of the scheme at the

time when he becomes so re-engaged, but

(b) that period does not count as practitioner service (or as a period in superannuable employment).

*Contributions to this Section of the* *scheme*

**10.**—(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.

(1A) For the purposes of this paragraph, the “relevant table” means—

(a) in respect of the 2014-2015 scheme year, Table 1;

(b) in respect of the 2015-2016 to 2018-2019 scheme years, Table 2.

Table 1

Scheme Year 2014-15

|  |  |
| --- | --- |
| Column 1  Superannuable Earnings band | Column 2  Contribution percentage rate |
| Up to £15,431  £15,432 to £21,477 | 5%  5.6 |
| £21,388 to £26,823 | 7.1% |
| £26,824 to £49,472 | 9.3% |
| £49,473 to £70,630 | 12.5% |
| £70,631 to £111,376 | 13.5% |
| £111,377 to any higher amount | 14.5% |

Table 2

Scheme Years 2015-2016 to 2018-2019

|  |  |
| --- | --- |
| Column 1  Superannuable Earnings band | Column 2  Contribution percentage rate |
| Up to £15,431 | 5% |
| £15,432 to £21,477 | 5.6% |
| £21,388 to £26,823 | 7.1% |
| £26,824 to £47,845 | 9.3% |
| £49,473 to £70,630 | 12.5% |
| £70,631 to £111,376 | 13.5% |
| £111,377 to any higher amount | 14.5%. |

(2) Subject to sub-paragraph (2A), a member whose superannuable earnings fall into a superannuable earnings band specified in column 1 of the relevant table must contribute the percentage of the member’s superannuable earnings specified in column 2 of that table in respect of that amount.

(2A) The superannuable earnings bands and contribution percentage rates shall be determined in accordance with the relevant table in respect of each scheme year.

(2B) revoked.

(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, in accordance with this paragraph, the contributions that are payable pursuant to regulations 10(1) and 11(1), a host Health and Social Services Board must take account of all superannuable earnings as a—

(a) practitioner, from all practitioner sources;

(b) non-GP provider, from all non-GP provider sources;

(c) dentist performer, from all dentist performer sources.

(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 relevant table in sub-paragraph (1A) 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 relevant table in sub-paragraph (1A), on the basis of whichever of the following the host Health and Social Services Board considers the most appropriate in the circumstances—

(a) the amount of the practitioner’s (other than a dentist performer) or non-GP provider’s

earnings that 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) the amount of the practitioner’s (other than a dentist performer) or non-GP provider’s

earnings that 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) the amount of such earnings that corresponds to the host Health and Social Services Board’s

estimate of the practitioner’s (not being a dentist performer) 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 relevant table in sub-paragraph (1A) 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 relevant table in sub-paragraph (1A), on the basis of whichever of the following the host Health and Social Services Board considers the most appropriate in the circumstances—

(a) the amount of the performers earnings that 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) the amount of the performers earnings that corresponds to the dentist performer’s most

recent certified or final superannuable earnings referred to in sub-paragraph (2K); or

(c) the amount of the performers earnings that 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 uprated 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) Contributions must be paid until the member—

(a) reaches age 75 or completes 45 years’ superannuable service, if the member is not a special class

officer;

(b) reaches age 65, or completes 45 years’ superannuable service and reaches age 60, if the member

is a special class officer.

(4) Save where sub-paragraph (5) applies, principal practitioners and non-GP providers shall pay regulation 10 contributions to the host Health and Social Services Board and dental practitioners shall pay such contributions to the appropriate employing authority.

(5) Where a principal practitioner or a non-GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority shall—

(a) deduct regulation 10 contributions from any superannuable earnings it pays to him; and

(b) where it is not also the Health and Social Services Board, pay those contributions to the host

Health and Social Services Board.

(6) Subject to sub-paragraph (7), where a principal practitioner or a non-GP provider is—

(a) an employing authority which is a GMS practice or an APMS contractor; or

(b) a shareholder or partner in such an employing authority,

that employing authority shall pay regulation 11(1) contributions to the host Health and Social Services Board.

(7) Where —

(a) the principal medical practitioner is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), each such employing authority shall pay regulation 11(1) contributions on any superannuable earnings it pays to that practitioner or, as the case may be, on the practitioner’s share of the partnership profits, to the host Health and Social Services Board;

(b) the non-GP provider is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), that non-GP provider must nominate one of those employing authorities and that nominated authority must pay regulation 11(1) contributions on any superannuable earnings it pays to that non-GP provider or, as the case may be, on the non-GP provider’s share of the partnership profits, to the host Health and Social Services Board.

(8) Where sub-paragraph (5) applies (but sub-paragraph (6) does not) and the employing authority referred to in that sub-paragraph is—

(a) not the host Health and Social Services Board, that employing authority shall pay regulation

11(1) contributions to the host Health and Social Services Board;

(b) is the host Health and Social Services Board, that Board shall pay regulation 11(1) contributions

to the Department in respect of any superannuable earnings it pays to him.

(9) Where an assistant practitioner (other than a locum practitioner) is engaged under a contract of services or for services by an employing authority, that authority shall—

(a) deduct regulation 10 contributions from any superannuable earnings it pays to him; and

(b) where it is not also the host Health and Social Services Board, pay those contributions to the host

Health and Social Services Board.

(10) Where sub-paragraph (9) applies, and the employing authority referred to in that sub-paragraph—

(a) is not the host Health and Social Services Board, that employing authority shall pay regulation

11(1) contributions to the host Health and Social Services Board;

(b) is the host Health and Social Services Board, that employing authority shall pay regulation 10

and 11(1) contributions to the Department in respect of any superannuable earnings it pays to

him.

(11) Locum practitioners must pay regulation 10 contributions to the host Health and Social Services Board.

(12) Where a locum practitioner is liable to pay contributions under sub-paragraph (11) in respect of superannuable locum work he does for an employing authority which is not—

(a) the host Health and Social Services Board;

(b) a GMS practice; or

(c) an APMS contractor,

that employing authority shall pay regulation 11(1) contributions to the host Health and Social Services Board.

(13) Where contributions are payable by a locum practitioner under sub-paragraph (11) in respect of superannuable locum work carried out for an employing authority which is—

(a) the host Health and Social Services Board;

(b) a GMS practice; or

(c) an APMS contractor,

the host Health and Social Services Board shall pay contributions payable under regulation

11(1) in respect of such a practitioner.

(14) Contributions which are due to be paid to the host Health and Social Services Board in accordance with this paragraph shall be paid to that Board not later than the 7th day of the month following the month in which the earnings were paid.

(15) Where an employing authority—

(a) is not the host Health and Social Services Board, it shall be a function of that employing authority

to provide the host Health and Social Services Board with a record of—

(i) any superannuable earnings paid by it to a practitioner;

(ii) contributions deducted by it in accordance with sub-paragraph (5) or (9),

not later than the 7th day of the month following the month in which the earnings were paid;

(b) is the host Health and Social Services Board that has deducted contributions in accordance with

sub-paragraph (5) or (9) and is liable to pay regulation 11(1) contributions in respect of any

superannuable earnings it pays to a practitioner, it shall be a function of that Board to maintain a

record of—

(i) the matters referred to in paragraph (a)(i) and (ii);

(ii) any contributions paid to it by a principal practitioner; and

(iii) any contributions paid to it by a locum practitioner.

(16) It shall be a function of the host Health and Social Services Board to pay the contributions—

(a) paid to it by a principal practitioner or locum practitioner;

(b) paid to it by another employing authority;

(c) it is liable to pay by virtue of sub-paragraphs (8)(b) and (10)(b),

in accordance with the provisions of this paragraph, to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(17) Without prejudice to any other method of recovery, where in respect of regulation 10 contributions—

(a) a principal practitioner, assistant practitioner, locum practitioner or non-GP provider has failed to

pay contributions;

(b) an employing authority has failed to deduct such contributions,

in accordance with this paragraph, the Department may recover any sum that remains due

in respect of those contributions by deduction from any payment by way of benefits to, or

in respect of, the member entitled to them where —

(a) the member agrees to such a deduction; and

(b) the deduction is to the member’s advantage.

(18) For the purposes of this paragraph—

(a) “regulation 10 contributions” means contributions payable under regulation 10 by a practitioner, a locum practitioner or, as the case may be, a non-GP provider under this Section of the Scheme;

(b) “regulation 11(1) contributions” means contributions payable under regulation 11(1) by an

employing authority in respect of a practitioner, a locum practitioner or, as the case may be, a non-GP provider.

*Normal retirement pension*

**11.**—(1) In the case of members who are or have been practitioners, regulation 12 (Normal retirement pension) is modified so that the yearly rate of a member’s pension –

(a) in respect of officer service, will be equal to 1/80th of final year’s superannuable pay for each complete year of service, plus the relevant daily proportion for each additional day (as described in that regulation); and

(b) in respect of practitioner service will be equal to 1.4 per cent of the member’s uprated earnings.

(2) In respect of—

(a) any scheme year prior to the 2008-2009 scheme year, the member’s uprated earnings have been

uprated in the manner determined by the Department having consulted such professional

organisations as the Department considered appropriate;

(b) the 2008-2009 scheme year and any later scheme year, the member’s uprated earnings are to be

calculated by uprating the member’s superannuable earnings by the amount of the annual increase

due under the provisions of the Pensions (Increase) Act (Northern Ireland) 1971 and Article 69 of

the Social Security Pensions (Northern Ireland) Order 1975, plus 1.5 per cent annually.

(3) Nothing in this paragraph shall be taken to require the Department to revisit the calculation of uprated earnings referred to in sub-paragraph (2)(a).

*Practitioners with benefits from both practitioner and officer service*

**11A.**—(1) A member–

(a) who has at least 2 years’ qualifying service or in respect of whom a transfer payment has been

made to this Section of the scheme in respect of his rights under a personal pension scheme;

(b) who ceases to be in officer service while continuing in practitioner service; and

(c) whose officer service is not treated as practitioner service under paragraphs 9(5A) or (6A),

shall be entitled to receive a separate pension and retirement lump sum in respect of his officer service.

(2) A member–

(a) who has at least two years’ qualifying service or in respect of whom a transfer payment has been

made to this Section of the scheme in respect of his rights under a personal pension scheme; and

(b) who ceases, or who ceased before 1st April 2003, to be in practitioner service while continuing in

officer service on or after that date,

shall be entitled to receive a separate pension and retirement lump sum in respect of such of his superannuable service as specified in sub-paragraph (3).

(3) The superannuable service specified for the purposes of sub-paragraph (2) is–

(a) any practitioner service; and

(b) any officer service which falls to be treated as practitioner service under paragraph 9.

(4) Subject to sub-paragraph (5), the amount of any pension or retirement lump sum which a member is entitled to receive under sub-paragraph (1) or (2) shall be the same as the amount of the pension or retirement lump sum which the member would have been entitled to receive under these Regulations if he had left superannuable employment on the day on which he ceased to be in officer service or, as the case may be, ceased to be in practitioner service.

(5) A member who is entitled to a pension and retirement lump sum under subparagraph (2) shall, if it would be more favourable to him, be treated as having continued in practitioner service until the last day of his superannuable employment.

(6) A member who, before commencing the member’s final period of practitioner service, has service as an officer (whether that service as an officer consists of a separate period of such service or two or more such periods), and—

(a) that officer service is preceded by an earlier period of practitioner service; and

(b) some or all of the officer service is not concurrent with the practitioner service,

shall, if it would be more favourable, be entitled to receive a separate pension and retirement lump sum for such part of that officer service that is not concurrent with the member’s practitioner service.

(7) The amounts of pension and retirement lump sum referred to in sub-paragraph (6)—

(a) shall be subject to a 1.5% increase for each whole year or part of a year within the increment

period;

(b) that increase shall be applied in like manner and at the same intervals as an increase applied to a

pension under the Pensions (Increase) Act (Northern Ireland) 1971; and

(c) that increase shall be effective immediately before the pension and lump sum become payable

under these Regulations.

(8) The increment period referred to in sub-paragraph (7) shall—

(a) begin with the day immediately following the day on which the member’s service as an officer

referred to in sub-paragraph (6) ceased for the last time; and

(b) end with the day immediately before the pension and retirement lump sum become payable under

these Regulations.

*Early retirement pension (ill-health)*

**12.—**(1) In the case of members who are or have been practitioners, regulations 13 or 13A are modified so that, if the member satisfies the requirements for a pension based on superannuable service that is increased under any of paragraphs (4) to (6) of regulation 13 or paragraphs (4) to (6) of regulation 13A –

(a) the member’s total service will be increased as described in whichever of those paragraphs applies:

(b) the length of the member’s officer service and practitioner service will each be increased by the proportion by which the member’s total superannuable service is increased; and

(c) for the purpose of calculating the member’s pension in respect of practitioner service, the member’s uprated earnings will then be increased by the same proportion as the member’s practitioner service is increased under sub-paragraph (b).

(2) For the purposes of sub-paragraph (1), “total superannuable service” includes both officer service and practitioner service but does not include any period of additional service that the member buys under regulation 67 (Right to buy additional service).

(3) Regulation 13A is modified so that the definition of “regular employment of like duration” in paragraph (18) of that regulation means such employment as the Department considers would involve a similar level of engagement in the member’s current superannuable service as a practitioner.

*Early retirement pension (employer’s consent)*

**13.** Revoked SR 2012 No.42

*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.

*Widow or widower’s pension on member’s death in superannuable employment*

**15.** In the case of members who die in superannuable employment as practitioners, regulation 24 (Member dies in superannuable employment) is modified so that the reference, in regulation 24(2), to the rate of the member’s superannuable pay when he died is treated, in relation to the member’s employment as a practitioner, as a reference to the average rate of the member’s superannuable earnings during the

last complete quarter before the member died.

*Increased widower’s pension*

**16.** In the case of female members who made a nomination under regulation 30 (Dependents widower’s pension) or an election under regulation 31 (Increased widower’s pension), those regulations are modified so that the lump sum payable on the member’s retirement will be reduced by 2.8 per cent of uprated earnings for each complete year of practitioner service before 25th March 1972, and by 1.4 per cent of uprated earnings for each complete year after 24th March 1972, plus, in each case,

the relevant daily proportion for each additional day.

*Increased surviving civil partner’s pension*

**16A.** In the case of a civil partner who made a nomination under regulation 31B (Dependent surviving civil partner’s pension) or an election under 31D (Increased surviving civil partner’s pension) those regulations are modified so that the lump sum payable on the member’s retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service plus, in each case, the relevant daily proportion for each additional day.

*Increased dependent surviving nominated partner’s pension*

**16B.** In the case of a member who made a nomination under regulation 31F (Dependent surviving nominated partner’s pension) that regulation is modified so that the lump sum payable on the member’s retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

*Increased surviving partner pension*

**16C.** In the case of a member who made an election under regulation 31H (Increased surviving civil partner’s pension) that regulation is modified so that the lump sum payable on the member’s retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

*Child allowance – member dies in superannuable employment*

**17.** In the case of members who die in superannuable employment as practitioners—

(a) paragraphs (4C), (4D), (6) and (7) of regulation 34 (Member dies in superannuable employment)

are modified so that the references to the rate of the member’s superannuable pay when he died is

treated, in relation to the member’s employment as a practitioner, as references to the average

rate of the member’s superannuable earnings during the last complete quarter before the member

died;

(b) paragraphs (10) and (12) of that regulation are modified so that the reference to the member’s

final year’s superannuable pay when he died is treated as a reference to the yearly average of the

member’s uprated earnings at the date of death.

*Preserved Pension*

**17A.** Regulation 49 is modified so that—

(a) paragraph (b) in the definition of “HSC employment” reads—

(b) the 2015 Scheme and that member has a break of service under the 2015 Regulations that exceeds five years.; and

(b) the definition of “regular employment of like duration” reads—

“regular employment of like duration” means such employment as the Department considers would involve a similar level of engagement to the member’s superannuable service as a practitioner immediately before that service ceased..

*Transfers from other pension arrangements*

**18.**—(1) In the case of members who are practitioners, regulations 60 (Member’s right to transfer accrued rights to benefits to this Section of the scheme) and 63 (Transfers in respect of more than one right to transfer of more than one member) are modified so that, if a transfer payment is accepted in respect of the member’s rights under another occupational pension scheme, a personal pension scheme, or a buy-out policy, the benefits in respect of the transfer payment will be calculated as described in this paragraph.

(2) The benefits in respect of the transfer payment will be calculated by increasing the member’s superannuable earnings for the financial year in which the member joined this Section of the scheme (or the financial year in which the transfer payment is received, if the payment is received more than 12 months after the member joined this Section of the scheme).

(3) The amount of the increase referred to in sub-paragraph (2) will be calculated by -

(a) treating the member as entitled to a period of officer service equal to the period of employment that qualified the member for the rights in respect of which the transfer payment is being made.

(b) calculating the final year’s superannuable pay that would have given rise to a cash equivalent in

respect of that officer service, under regulation 55 (Amount of member’s cash equivalent), equal

to the amount of the transfer payment; and

(c) increasing the member’s superannuable earnings by an amount equal to the superannuable pay

that the member would have received during that period of officer service if the member’s

superannuable pay had been equal to the final year’s superannuable pay mentioned in paragraph

(b) throughout that period.

(4) For the purposes of sub-paragraph (3), the final year’s superannuable pay mentioned in sub-paragraph (3)(b) will be calculated in a manner that is consistent with the actuarial methods and assumptions referred to in—

(a) regulation 61 (Transfers made under the Public Sector Transfer Arrangements) where the transfer

payment is made under the Public Sector Transfer Arrangements; or

(b) regulation 62 (Transfers that are not made under the Public Sector Transfer Arrangements) in any

other case.

(5) The upper limit on a dental practitioner’s superannuable earnings under paragraph 8 (limit on superannuable earnings - dental practitioners) will not apply to any increase in a member’s superannuable earnings under this paragraph.

*Members absent from work*

**19.**—(1) In the case of members who are practitioners, regulations 65 (Absence because of illness or injury or maternity leave) and 66 (Other leave of absence) are treated, in relation to the member’s employment as a practitioner, as references to superannuable earnings.

(2) Subject to sub-paragraph (8), regulation 65 is further modified so that, if a member’s earnings in respect of employment as a practitioner are reduced during a period of absence from work by reason of illness or injury, the member’s superannuable earnings will be calculated as described in sub-paragraphs (4) and (5) (instead of on the basis of the member’s earnings immediately before the absence started).

(3) Subject to sub-paragraph (8), regulation 65 is further modified so that, if a member’s earnings in respect of employment as a practitioner cease during a period of absence from work by reason of illness or injury, the member will be treated as continuing in superannuable employment for a period of 12 months from the date on which the member’s earnings were ceased and the member will not be treated as having left superannuable

employment in accordance with regulation 65(4) until the end of that 12 month period. During the 12 month period, the member’s superannuable earnings will be calculated as described in sub-paragraphs (4) and (5).

(4) If the member is one of a number of practitioners who have elected as described in paragraph 4(2), each practitioner’s superannuable earnings will be calculated as if the partnership’s aggregate superannuable earnings were equal to the amount of the partnership’s aggregate superannuable earnings during the 12 month period ending immediately before the member’s earnings were reduced or ceased.

(5) Except where the member’s superannuable earnings fall to be calculated as described in

sub-paragraph (4), the member will be treated as having continued to receive the same average rate of superannuable earnings as during the 12 month period ending immediately before his earnings were reduced or ceased.

(6) (Old 6 was revoked by 2008/163) For the purposes of these Regulations, for the duration of any pilot scheme—

(a) a member who provides piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as a practitioner whether or not his name is included on a dental list prior to the commencement of the pilot scheme; and

(b) a member who performs piloted services under a dental pilot scheme and who is absent from work by reason of illness or injury shall be treated as an officer whether or not his name is included on a dental list prior to the commencement of the pilot scheme.

(7) Regulations 65 and 66 and the previous sub-paragraphs do not apply in the case of locum practitioners.

(8) Before a calculation of a member’s superannuable earnings can be made in accordance with sub-paragraphs (4) and (5), written notice of the length of the absence must be given to the Department by—

(a) the member, where the member is a principal practitioner or a non-GP Provider; or

(b) in all other cases the host Health and Social Services Board.

(9) The notice referred to in sub-paragraph (8) must be provided to the Department in such form and manner as the Department may stipulate from time to time.

*Right to buy additional service and unreduced retirement lump sum*

**20.**—(1) In the case of members who are practitioners, regulations 67 (Right to buy additional service), 68 (Right to buy unreduced retirement lump sum), 70 and 71 (Paying by single payment) and 72 (Paying by regular additional contribution) are modified so that the cost of buying additional service and unreduced retirement lump sum and the benefits in respect of any additional service bought under regulation 67 are calculated as described in this paragraph.

(2) Regulation 67 is modified so that, if the member elects to pay or additional service by a single payment, the benefits in respect of the additional service will be calculated by increasing the member’s superannuable earnings for the financial year in which the member elects to buy the additional service.

(3) The amount of the increase referred to in sub-paragraph (2) will be calculated using the formula–

Relevant earnings X additional service bought

where –

“relevant earnings” means the amount of remuneration by reference to which the amount of the single payment was calculated; and

“additional service bought” means the period of additional service that the member chooses to buy, calculated in complete years with a relevant daily proportion for each additional day.

(4) Regulation 67 is further modified so that, if the member chooses to pay for additional service by regular additional contributions, the benefits in respect of the additional service will be calculated by increasing the member’s superannuable earnings for the year in which the member stops paying those contributions.

1. The amount of the increase referred to in sub-paragraph (4) will be calculated using the formula–

Relevant uprated earnings X additional service bought

where –

“relevant uprated earnings” means the yearly average of the part of the member’s uprated earnings

that is attributable to the period during which the member paid regular additional contributions;

and

“additional service bought” means the period of additional service that the member chooses to buy,

calculated in complete years with a relevant daily proportion for each additional day.

(6) Regulation 70(4) and (5) (Paying for additional service by single payment) is modified so that, for the purposes of Table 1 of Schedule 1, “remuneration” means, subject to sub-paragraph (7), the yearly average of a member’s uprated earnings in respect of practitioner service before the date on which the employing authority receives notice in writing on the form provided exercising the member’s right to buy additional service. For the purpose of this calculation, any officer service that is treated as practitioner service by virtue of paragraph 9 (officer service treated as practitioner service) will be ignored.

(7) If, when the employing authority receives a notice exercising a right to buy additional service, the member has not been in practitioner service for a complete quarter, “remuneration” will be calculated by reference to the member’s uprated earnings at the end of the member’s first complete quarter in practitioner service.

(8) Regulation 72(5) (Paying for additional service by single payment) is modified so that, if the member elects to pay for additional service or unreduced retirement lump sum by regular additional contributions, the contributions will be calculated as a percentage of superannuable earnings (instead of superannuable pay), in accordance with Table 3 of Schedule 1 (if the member is buying additional service) or Table 4 of Schedule 1 (if the member is buying an unreduced retirement lump sum).

(9) The upper limit on a dental practitioner’s superannuable earnings under paragraph 8 (limit on superannuable earnings – dental practitioners) shall not apply to any increase in a member’s superannuable earnings under this paragraph.

*Members doing more than one job*

**21.**—(1) In the case of members who are practitioners, Regulation 77 (Members doing more than one job) is modified as described in this paragraph in relation to any practitioner who is in concurrent employment as an officer.

(2) A practitioner who opts not to contribute to this Section of the scheme in respect of his employment as a practitioner may, nevertheless, participate in this Section of the scheme in respect of concurrent employment as an officer.

(3) Regulation 77(2) is modified so that a practitioner may participate in this Section of the scheme in respect of concurrent whole-time or part-time employment as an officer, even if he also participates in this Section of the scheme in respect of employment as a practitioner.

(4) For the purposes of paragraph 13 (Early retirement pension (ill health), any amount by which a member’s service in respect of concurrent employments exceeds the period during which the member carried on those employments will be ignored for the purpose of calculating the member’s total superannuable service.

(5) If a transfer payment is accepted in respect of a member who is contributing to this Section of the scheme in respect of employment as a practitioner and concurrent employment as an officer, the member may elect whether the benefits in respect of the transfer payment should be calculated as described in regulations 60 to 62 or as described in paragraph 18 (transfers from other pension arrangements).

*Reduction of pension on return to HPSS employment*

**22.**—(1) In the case of members who are or have been practitioners, regulation 85 (Reduction of pension) is modified as described in this paragraph.

(2) Regulation 85(14) is modified so that:-

(a) “pay” means the amount of superannuable earnings received by the member, for any financial

year, from HPSS employment (or what would have been his superannuable earnings had he been

in superannuable employment);

(b) “previous pay” means the average of the annual amounts of the member’s uprated earnings in

respect of practitioner service (or service which is treated as practitioner service).

(3) In the case of a practitioner who becomes entitled to receive, simultaneously, a pension under this Section of the scheme in respect of both officer service and practitioner service, the member’s previous pay in respect of his practitioner service shall be increased by the amount of his previous pay in respect of his officer service.

(4) In the case of a practitioner who becomes entitled to receive a pension under this Section of the scheme and who holds a continuing employment otherwise than as a practitioner, previous pay will be increased by the annual rate of remuneration of the continuing employment.

(5) This paragraph applies where a practitioner becomes entitled to receive a pension under this Section of the scheme and in the 12 months preceding the date on which he became so entitled, held concurrent superannuable employment as an officer.

(6) Where sub-paragraph (5) applies and the concurrent superannuable employment terminated before the pension became payable, previous pay in relation to the practitioner service shall be increased as described in sub-paragraph (7).

(7) For the purpose of sub-paragraph (6), previous pay shall be increased by the annual rate of pay in respect of the concurrent superannuable pay mentioned in that sub-paragraph or, if higher, that part of the superannuable pay for that employment which falls within the 12 months period mentioned in sub-paragraph (5).

*Benefits on death in superannuable employment after pension becomes payable*

**22A.** The following provisions are modified so that the reference to the member’s rate of superannuable pay when he dies is treated as a reference to the average rate of the member’s superannuable earnings during the last complete quarter before the member died—

(a) paragraphs (7) and (12) of regulation 87 (Benefits on death in superannuable employment after

pension under regulation 13 becomes payable); and

(b) paragraphs (10) and (15)(a) of regulation 87A (Benefits on death in superannuable employment

after pension under regulation 13A becomes payable).

*Accounts and actuarial returns*

**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 practitioner falling within paragraph (a) of the definition of principal practitioner and a non-GP provider shall provide each relevant host Health and Social Services Board with a certificate that correctly records the totality 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 practitioner falling within paragraph (a) of the definition of assistant practitioner”; and a locum practitioner shall provide each relevant host Health and Social Services Board with a certificate that correctly records the totality 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 practitioner falling within the definition of paragraph (b) of the definition of principal practitioner shall provide each relevant Health and Social Services 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 practitioner falling within paragraph (b) of the definition of assistant practitioner shall provide each relevant 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) 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) Each employing authority must, in respect of each scheme year, provide the Department with a statement of estimated contributions due under regulations 10, 11, 72 and 73A in respect of any—

(a) non-GP provider that is a GMS practice or an APMS contractor who assists in the provision of HSC services provided by that GMS practice or APMS contractor;

(b) principal practitioner, falling within paragraph (a) of the definition of principal practitioner, who performs medical services as, or on behalf of, the GMS practice or APMS contractor; or

(c) assistant practitioner, falling within paragraph (a) of the definition of assistant practitioner, employed by the GMS practice or APMS contractor.

(7) In respect of each scheme year, a GMS practice or an APMS contractor shall provide the Department with an end-of-year statement of—

(a) superannuable earnings,

(b) contributions to this Section of the Scheme made under regulation 10 (Contributions by members) and the modifications to that regulation referred to in paragraph 10,

(c) contributions to this Section of the Scheme made under regulation 11 (Contributions by employing authorities) and the modifications to that regulation referred to in paragraph 10, and

(d) any superannuable earnings deemed in accordance with regulation 65 (Absence because of illness or injury or certain types of leave) and the modifications to that regulation referred to in paragraph 19,

in respect of assistant practitioners, falling within paragraph (a) of the definition of assistant practitioner, employed by the GMS practice or APMS contractor.

(8) The Department shall be provided with—

(a) the statement referred to in sub-paragraph (6) at least 1 month before the beginning of that scheme year;

(b) the statement referred to in sub-paragraph (7) no later than 3 months after the end of that scheme year.

(9) No later than 13 months after the end of each scheme year, each employing authority must forward to the Department a copy of the records referred to in regulation 97(3) and (4).

(10) A member’s superannuable earnings for a scheme year shall be zero and no contributions paid in respect of that scheme year are to be refunded where, in respect of that scheme year, a practitioner or non-GP provider has failed to comply with the requirements of—

(a) whichever of sub-paragraphs (2) to (5) applies to that member, or

(b) sub-paragraph (2) of paragraph 2.

This is subject to sub-paragraphs (11) and (12).

(11) If, in respect of a scheme year, the employing authority of a practitioner or non-GP provider member is in possession of a figure representing all or part of that member’s superannuable earnings for that year, the Department may treat that figure as the amount of that member’s superannuable earnings for that year where—

(a) the member has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to them; and

(b) a benefit in respect of that member’s service as a practitioner or non-GP provider is payable to, or in respect of them, under these Regulations.

(12) 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 or person (or persons) duly authorised to act on the member’s behalf to provide the relevant certificate or statement within the period specified in sub-paragraph (13).

(13) The period is—

(a) that referred to in whichever of sub-paragraphs (2) to (5) was or is applicable to them, or

(b) such other period as the Department permits.

(14) The certificates and statements referred to in this paragraph—

(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.

(15) 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 disturbance in the functioning of his mind or brain

**SCHEDULE 2A** Regulation 83B

PENSION SHARING ON DIVORCE OR NULLITY OF MARRIAGE

**Discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit**

**1.**—(1) The Department shall, following the death of the person entitled to a pension credit before liability in respect of that credit has been discharged, discharge its liability in respect of that credit

by way of the payment of a lump sum in accordance with regulation 6(2)(a)(i) of the Pension Sharing

(Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000 (discharge of

liability in respect of a pension credit following the death of the person entitled to the pension credit).

(2) The amount of a lump sum payable under this paragraph shall be-

(a) payable in accordance with regulation 22 as modified by paragraph 9; and

(b) equal to 3 times the annual rate of the pension credit benefit to which the person entitled to the

pension credit would have been entitled had he reached normal benefit age on or before the date

of death.

**Safeguarded rights**

**2. *revoked***

**Pension credit benefit on attaining normal benefit age**

**3.**—(1) A pension credit member shall be entitled under this Section of the scheme to pension credit benefit which shall consist of–

(a) a pension; and

(b) where the member, from whose rights the pension credit member’s pension credit rights are

derived, has not received a lump sum on or before the day on which the pension sharing order or

provision takes effect, a lump sum.

(2) Subject to paragraphs 3A to 4, a pension credit member shall be entitled to the payment of the pension credit benefit when he reaches normal benefit age.

(3) Payment of the pension credit benefit to which a pension credit member is entitled shall not be deferred beyond normal benefit age.

(4) A pension payable in accordance with this paragraph shall be payable to the pension credit member for life.

(5) Subject to paragraph (7), the value of the pension referred to shall be equal to the value of the pension credit rights that have accrued to or in respect of the pension credit member.

(6) The lump sum referred to shall be equal to 3 times the annual rate of the pension.

(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.

**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.

**Commutation of the whole of pension credit benefit before normal benefit age**

**4.**—(1) A pension credit member shall be entitled to the commutation of the whole of his pension

credit before reaching normal benefit age in the circumstances permitted by paragraph (b) of the lump sum rule on section 166(1) of the Finance Act 2004.

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

(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.

**Commutation of the whole of pension credit benefit at normal benefit age**

**5.**—(1) Where–

(a) the pension credit member is suffering from serious ill health at normal benefit age such as to

give rise to a life expectancy of less than one year from the date on which commutation of the

pension credit benefit is applied for; or

(b) the total benefits payable to the pension credit member, including any pension credit benefit, is of

an amount that complies with the provisions of paragraphs 7 to 9 of Part 1 of Schedule 29 to the

2004 Act) (Lump sum rule: Trivial commutation lump sum) at normal benefit age;

the Department may discharge its liability in respect of the payment of pension credit benefit by the

payment of a lump sum to the pension credit member at normal benefit age.

(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.

**Pension credit member dies before pension credit benefit becomes payable**

**6**.—(1) If a pension credit member dies before his pension under this Section of the scheme becomes payable under paragraph 3, a lump sum on death shall be payable in accordance with regulation 22 as modified by paragraph 9.

(2) The lump sum shall be equal to 3 times the annual rate of the pension credit member’s pension, to which he would have been entitled had he reached normal benefit age on or before the date of death, calculated in accordance with paragraph 3(5).

**Pension credit member dies after pension credit benefit becomes payable**

**7.**—(1) If a pension credit member dies within 5 years after his pension under this Section of the scheme became payable under paragraph 3, a lump sum on death shall be payable in accordance with regulation 22 as modified by paragraph 9.

(2) Subject to sub-paragraph (3), the lump sum on death shall be equal to 5 times the annual rate of the pension credit member’s pension less the amount of pension already paid.

(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).

(4) An amount calculated in accordance with this sub-paragraph is an amount equal to twice the amount on the valuation day of the final year’s superannuable pay of the member from whose pension rights the pension credit is derived.

(5) Where a pension credit member referred to in sub-paragraph (1) dies on or before the 5th April 2011 and had attained the age of 75 at the date of pension credit member’s death—

(a) the lump sum referred to in that paragraph shall cease to be payable; and

(b) shall instead be converted into an annual pension to be determined and paid in accordance with

sub-paragraph (6).

(6) The pension referred to in sub-paragraph (5) shall be—

(a) determined in accordance with guidance and tables provided by the Scheme actuary for the

purpose of converting the amount of lump sum into an annual pension;

(b) paid to the person who would otherwise be entitled to receive the lump sum in accordance with

regulation 22; and

(c) paid to the person from the day after the pension credit member’s death until the fifth anniversary

of the day the pension credit member’s pension under this Section of the scheme became payable.

(7) If, in accordance with regulation 22, a pension credit member has given notice that more than one person is to receive a share of the lump sum, each such person shall receive the same percentage of the annual pension as was specified for that person in the pension credit member’s notice.

(8) If, in accordance with regulation 22, the annual pension is to be paid to the pension credit member’s personal representatives they may, as part of the distribution of the credit member’s estate, give irrevocable notice to the Department—

(a) specifying—

(i) one or more individuals, or

(ii) one incorporated or unincorporated body, to whom the benefit of the pension under this

regulation from the date of receipt of the notice by the Department is to be assigned; and

(b) where two or more individuals are specified, specifying the percentage of the pension payable to

each of them,

and the pension (or, as the case may be, the percentage of it specified in respect of the person) may

be paid to the person or body, unless sub-paragraph (9) applies.

(9) This paragraph applies if—

(a) the person specified in the notice has died before payment can be made;

(b) payment to the person or body specified in the notice is not, in the opinion of the Department,

reasonably practicable; or

(c) the person to whom the pension (or a specified percentage of the pension) would otherwise be

payable has been convicted of an offence specified in regulation 93(1A) and the Department has

directed, as a consequence of that conviction, that the person’s right to a payment in respect of the

pension credit member’s death is forfeited.

(10) The prohibition on assignment of benefits in regulation 90 (Benefits not assignable) shall not apply to an assignment by personal representatives under this regulation.

**Excluded membership**

**8.** Where a pension credit member is also a member of this Section of the scheme, any period which may count for any purpose in connection with his pension credit benefit shall not be taken into account for the purpose of ascertaining his entitlement to, or, as the case may be, the calculation of, benefits under this Section of the scheme other than pension credit benefits.

**Payment of lump sum on death**

**9.** Regulation 22 (Payment of lump sum) shall apply in respect of a person entitled to a pension credit or a pension credit member, as the case may be, with the following modifications–

(a) the reference in that regulation to “any of regulations 18 to 21” shall be a reference to “paragraph

1, 6 or 7 of Schedule 2A”;

(b) the reference in paragraphs (2), (3), (4) and (5) of that regulation to “member” shall be a

reference to “person entitled to a pension credit or, as the case may be, the pension credit

member”;

(c) the reference in paragraphs (2), (3), (4) and (10) of that regulation to “member’s personal

representative” shall be a reference to “personal representative of the person entitled to a pension

credit or, as the case may be, the pension credit member”.

(d) for paragraph (6) substitute—

“(6) A nomination shall be given only by a person entitled to a pension credit, or as the case

may be, a pension credit member under this Section of the scheme.”;

(e) for paragraph (9) substitute—

“(9) A person entitled to a pension credit, or as the case may be, a pension credit member whose credit was implemented on, or after, 1st April 2008 cannot give a notice referred to in paragraph (3)(a).”;

(f) in paragraph (12) omit sub-paragraph (d).

**Transfers**

**10.** The Department shall not pay or accept a transfer value in respect of any pension credit rights or

pension credit benefits.

**General rules about benefits**

**11.** Regulations 88 (Claims for benefits), 89 (Deduction of tax), 90 (Benefits not assignable) and 91 (Beneficiary who is incapable) shall apply to a pension credit member.

**Offset for crime, negligence or fraud**

**12.** Regulation 92 (Offset for crime, negligence or fraud) shall apply to a pension credit member with the following modifications wherever the words to be modified appear–

(a) the reference to “member’s” or “member” shall be a reference to “pension credit member’s” or

“pension credit member” as the case may be; and

(b) ***revoked***

**Loss of rights to benefits**

**13.** Regulation 93 (Loss of rights to benefits) shall apply to a pension credit member with the following modifications wherever the words to be modified appear–

(a) the reference to “member” shall be a reference to “pension credit member”; and

(b) ***revoked***

**Administrative matters**

**14.** Regulation 96 (Determination of questions) shall apply to a person who is entitled to a pension credit or, as the case may be, a pension credit member.

SCHEDULE 3 Regulation 99

**Revocations**

|  |  |
| --- | --- |
| Column 1  *Regulations* | Column 2  *Extent of Revocation* |
| The Health Services  (Superannuation) (Amendment)  Regulations (Northern Ireland) 1983  (S.R. 1983 No. 152) | The whole of the Regulations |
| The Health Services (Superannuation)  (Amendment) (No.2) Regulations  (Northern Ireland) 1983 (S.R. 1983 No. 178) | The whole of the Regulations |
| The Health and Personal Social Services  (Superannuation) Regulations (Northern Ireland)  1984 (S.R. 1984 No. 336) | The whole of the Regulations |
| The Health and Personal Social Services  (Superannuation) (Amendment) Regulations  (Northern Ireland) 1988 (S.R. 1988 No. 271) | The whole of the Regulations |
| The Health and Personal Social Services  (Superannuation) (Amendment) Regulations  (Northern Ireland) 1990 (S.R. 1990 No. 62) | The whole of the Regulations |
| The Health and Personal Social Services  (Superannuation, Premature Retirement  and Injury Benefits) (Amendment)  Regulations (Northern Ireland) 1991  (S.R. 1991 No. 506) | Regulations 2, 3, 4, and 5 |
| The Health and Personal Social Services  (Superannuation) (Amendment No. 3) Regulations  (Northern Ireland) 1994 (S.R. 1994 No. 203) | The whole of the Regulations |
|  |  |

EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations consolidate, with amendments, the provisions of the Health and Personal Services (Superannuation) Regulations (Northern Ireland) 1984 which provide for the superannuation of persons engaged in the Health and Personal Social Services.

The main changes are as follows—

(a) provisions is made for the payment of a voluntary early retirement pension where the employing authority agrees to meet the cost, for all members except medical and dental practitioners. Benefits will not be reduced or enhanced (regulation 15);

(b) provision is made for the payment of a voluntary early retirement pension for all members which will allow retirement between the ages of 50 and 60 with actuarially reduced benefits (regulation 16);

(c) provision is made for an increase in the amount of lump sum benefit payable where a member dies in service to twice the member’s final year’s superannuable pay (regulation 18);

(d) the provisions under which female nurses, midwives, physiotherapists and health visitors are currently allowed to retire at age 55 are extended to male nurses etc in relation to superannuable service from 17th May 1990. This provision is, however, withdrawn in relation to those who first become members of the scheme after the coming into operation of these Regulations and in relation to those previous members who have a break in superannuable service of 5 years or more ending after that date (regulation 75);

(e) mental health officer status will no longer be available in relation to those who first become members of the scheme after the coming into operation of these Regulations and for those who have a break of more than 5 years in their superannuable service ending after that date (regulation 76);

(f) provision is made for the suspension of pension in relation to members who return to HPSS employment within 1 month of their pension becoming payable (regulation 84);

(g) abatement of pension for those who continue in or return to HPSS employment after their pension becomes payable to apply only to age 60 (regulation 85).

1. () 1971 c.35 (N.I.) [↑](#footnote-ref-1)