

**2005 No. 533**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Health and Personal Social Services (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Civil Partnership) (Amendment) Regulations (Northern Ireland) 2005**

*Made - - - - - 28th November 2005*

*Coming into operation 5th December 2005*

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

**Citation and commencement**

1. These Regulations may be cited as the Health and Personal Social Services (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Civil Partnership) (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

**Interpretation**

2. In these Regulations—

“the Additional Voluntary Contributions Regulations” means the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations 1999(c);

“the Compensation for Premature Retirement Regulations” means the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983(d);

“the Injury Benefits Regulations” means the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(e);

“the Superannuation Scheme Regulations” means the Health and Personal Social (Superannuation) Regulations (Northern Ireland) 1995(f).

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(a) See S.I. 1997/283(N.I.): Article 3(6)  
(b) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)  
(c) S.R. 1999 No. 294 as amended by S.R. 2002 No. 129; S.R. 2004 No. 104 and S.R. 2005 No. 154  
(d) S.R. 1983 No. 155 as amended by S.R. 1986 No. 322 and S.R. 1991 No. 506  
(e) S.R. 2001 No. 367 as amended by S.R. 2004 No. 156  
(f) S.R. 1995 No. 95: the relevant amending instruments are S.R. 1998 No. 299, S.R. 1999 No. 293, S.R. 2002 No. 69, S.R. 2004 Nos. 103, and 104, S.R. 2005 No. 155

### **Amendment of the Superannuation Scheme Regulations**

3.—(1) The Superannuation Scheme Regulations shall be amended in accordance with the following provisions.

(2) In paragraph (3)(d) of regulation 11 (Contributions by employing authorities) after “widow, widower” insert “, surviving civil partner”.

(3) In regulation 22 (Payment of lump sum)—

(a) for widow or widower” substitute in each place “widow, widower or surviving civil partner”; and

(b) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

(4) In regulation 23 (Widows pension)—

(a) in paragraph (2)—

(i) in sub-paragraph (a) omit “and”;

(ii) in sub-paragraph (b) after “remarries” insert “;”

(b) after sub-paragraph 2(b) insert—

“(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 5th December 2005.”;

(c) In paragraph (3) after the words “paragraph (2)” insert “or (2A)”.

(5) After regulation 31 (Increased widower’s pension) insert—

#### **“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) Where regulations 24(3) or 26(2) 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) (Early retirement pension (ill health)), in the superannuable service on which the member’s pension under regulation 13 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 dependant 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 dependant surviving civil partner shall be entitled to a dependant surviving civil partner's pension.

(4) The dependant 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 dependant 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) (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) (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) In paragraph (1) of regulation 32 (Dependent child)—

(a) in sub-paragraph (b) after “marriage entered into”, insert “or a civil partnership formed”;

and

(b) in sub-paragraph (c) “after spouse”, insert “or civil partner”.

(7) In regulation 34 (Member dies in superannuable employment)—

(a) in paragraphs (4), (7) and (8) after “spouse”, insert (in each place) “or civil partner”;

(b) in paragraphs (5), (6) and (8) for “widow's or widower's”, substitute (in each place) “widow's, widower's or surviving civil partner's”; and

(c) in paragraphs (5) and (6) for “widow or widower”, substitute (in both places) “widow, widower or surviving civil partner”.

(8) In regulation 35 (Member dies after pension becomes payable)—

(a) in paragraphs (3), (4) and (5) after “spouse” insert (in each place) “or civil partner”;

(b) in paragraphs (5), (6) and (7) for “widow's or widower's”, substitute (in each place) “widow's, widower's or surviving civil partner's”; and

(c) in paragraphs (6) and (7) for “widow or widower”, substitute (in each place) “widow, widower or surviving civil partner”.

(9) In regulation 36 (Member dies with preserved pension)—

(a) in paragraphs (4), (5) and (6) after “spouse” insert (in each place) “or civil partner”;

(b) in paragraph (6) for “widow's or widower's”, substitute “widow's, widower's or surviving civil partner's”.

(10) In paragraphs (1) and (2) of regulation 38 (Child not dependent on surviving parent or spouse of a parent) after “spouse” insert (in each place) “or civil partner”;

(11) In regulation 39 (Allocation of pension)—

(a) in paragraphs (1) and (2) after “spouse”, insert in both places “, a civil partner”; and

- (b) in paragraph (2) for “widow’s or widower’s”, substitute “widow’s, widower’s or surviving civil partner’s”.
- (12) In regulation 40 (Limits on allocation of pension)—
- (a) in paragraph (1) after “spouse,” insert “, a civil partner”;
- (b) in paragraph (2) for “or spouse’s pension”, substitute “, spouse’s pension or civil partner’s pension”; and
- (c) in paragraph (3) for “or spouse”, substitute “, spouse or civil partner”.
- (13) In paragraph (2)(b) of regulation 41 (Date on which allocation has effect) for “or spouse”, substitute “, spouse or civil partner”.
- (14) In regulation 43 (Guaranteed minimum pensions)—
- (a) after paragraph (4) insert—
- “(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 year 1988 — 1989 and subsequent tax years.” and
- (b) in paragraph (6) for “widow’s or widower’s”, substitute “widow’s, widower’s or surviving civil partner’s”.
- (15) In regulation 47 (Protected rights transferred to the scheme) after “spouse”, insert (in each place) “or civil partner”.
- (16) In paragraph (2) of regulation 48 (State scheme premiums) for “widow or widower”, substitute (in each place) “widow, widower or surviving civil partner”.
- (17) In paragraph (3) of regulation 50 (Refund of contributions) after “spouse”, insert “or civil partner”.
- (18) In paragraph (3)(a) of regulation 52 (Early leavers returning to superannuable employment) after “spouse”, insert “or civil partner”.
- (19) In regulation 67 (Right to buy additional service) after paragraph (5) insert—
- “(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.”.
- (20) In paragraph (1) of regulation 68 (Right to buy an unreduced retirement lump sum) after “married” insert “or in a civil partnership”.
- (21) In regulation 71 (Paying for an unreduced retirement lump sum by single payment) after paragraph (2) insert—
- “(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.).”.
- (22) In paragraph (7)(b) of regulation 76 (Mental health officers) for “widow or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- (23) In regulation 87 (Benefits on death in superannuable employment after pension becomes payable)—
- (a) in paragraphs (4) and (7) after “spouse”, insert (in each place) “or civil partner”;
- (b) in paragraphs (4), (5), (6) and (8) after “spouse’s”, insert (in each place) “or civil partner’s”; and
- (c) in paragraph (6) after “widower’s”, insert “or surviving civil partner’s”.
- (24) In paragraph (1A)(a) of regulation 93 (Loss of rights to benefits) for “widow or widower”, substitute “widow, widower or surviving civil partner”.

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(a) Paragraph (1A) was inserted by S.R. 2005 No. 155

(25) In Schedule 2 (Medical and dental practitioners) after paragraph 16 (Increased widower's pension) insert—

**“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.”.

**Amendment of the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001**

4.—(1) The Injury Benefits Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 8 (Widow's or widower's allowance)—

(a) in paragraphs (1) and (2), for “widow or widower”, substitute (in each place) “widow, widower or surviving civil partner”; and

(b) for paragraph (3) substitute—

“(3) Except where paragraph (3A) applies, a widow, widower or surviving civil partner shall not be entitled to receive an allowance—

(a) if the marriage took place or the civil partnership was formed after—

(i) the deceased last ceased to be employed as a person to whom these Regulations apply; or

(ii) the date on which his or her earning ability was permanently reduced as a result of the injury or disease,  
whichever is the later;

(b) if at the date of the deceased's death such widow, widower or surviving civil partner and a man or, as the case may be, a woman to whom she or he is not married or with whom she or he is not in a civil partnership are living together as husband and wife or as civil partners; or

(c) in respect of any period after such widow, widower or surviving civil partner—

(i) remarries or forms a civil partnership, or

(ii) or during which she or he lives together with another person as if she or he were married to or in a civil partnership with that other person,

so, however, that where such marriage or civil partnership has terminated, the Department may restore an allowance to a widow, widower or surviving civil partner if it is satisfied that such widow, widower or surviving civil partner is suffering hardship.

(3A) This paragraph applies where—

(a) the deceased referred to in paragraph (3) died before 5th December 2005, and

(b) his widow, or as the case may be, her widower forms a civil partnership or lives with another person of the same sex as if they were civil partners.”.

(3) In regulation 9 (Child's allowance)—

(a) in paragraph (2)(b) after “marriage”, insert “or civil partnership”; and

(b) in paragraph (2)(c) after “spouse” insert “or civil partner”.

(4) In regulation 10 (Dependent relative's allowance)—

(a) In paragraph (1)(a) after “spouse's”, insert “or civil partner's”;

(b) In paragraph (2)—

(i) for “widow or widower”, substitute “widow, widower or surviving civil partner”;  
and

(ii) after “spouse” insert (in each place) “or civil partner”; and

- (c) in paragraph (4) after sub-paragraph (a) insert—  
 “(aa) if he or she subsequently forms a civil partnership or lives together with another person as if they were civil partners of each other; or”; and
- (d) after paragraph (4) insert—  
 “(4A) Paragraph (4)(aa) shall not apply where the member dies before 5th December 2005.”.
- (5) In paragraph (1) of regulation 12 (Lump sum payment on death)—  
 (a) in sub-paragraph (a) for “widow or widower”, substitute “widow, widower or surviving civil partner”; and  
 (b) in sub-paragraph (b) after “spouse” insert “or civil partner”.
- (6) In paragraph (3) of regulation 13 (Incidental provisions) for the “widow’s or widower’s pension”, substitute “ the widow’s, widower’s or the surviving civil partner’s pension”.
- (7) In regulation 23 (Determination of questions) for “widow or widower”, substitute “widow, widower or surviving civil partner”.

**Amendment of the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999**

5.—(1) The Additional Voluntary Contributions Regulations shall be amended in accordance with the provisions of this regulation.

(2) In paragraph 1(a) of regulation 2 (Interpretation), in the definition of “dependent”, after sub-paragraph (a) insert—

“(aa) a surviving civil partner;”.

(3) In paragraphs (3) and (5) of regulation 15 (Payments by the Department) after “spouse” (in each place) insert “or civil partner”.

(4) In paragraph 11(2) for “widow or widower”, substitute (in each place) “widow, widower or surviving civil partner”.

**Amendment of the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983**

6.—(1) The Compensation for Premature Regulations shall be amended in accordance with the provisions of this Regulation.

(2) In paragraph (10) of regulation 5 (Crediting of additional period of service) after “spouse”, insert “or civil partner”.

(3) In regulation 6(b) (Compensation payable to widow or dependents) after “widower”, insert (in each place) “or surviving civil partner;”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 28th November 2005.

(L.S.)

*D C Bingham*

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

The Department of Finance and Personnel hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel on 28th November 2005.

(L.S.)

*M McIvor*

A senior officer of the Department of Finance and Personnel

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(a) The definition of “dependent” was substituted by S.R. 2002 No.129  
 (b) Regulation 6 was amended by S.R. 1991 No. 506

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make further amendments to the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (“the Superannuation Scheme Regulations”), the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001 (“Injury Benefits Regulations”), the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999 (“Additional Voluntary Contributions Regulations”) and the Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983 (“Compensation for Premature Retirement Regulations”). The amendments extend these provisions to civil partners, their dependents and surviving civil partners to enable them to receive benefits under the relevant legislation following the introduction of civil partnerships on 5th December 2005 when the Civil Partnership Act comes into force.

Regulations 1 and 2 provide for the citation, commencement and interpretation of the amending Regulations

Regulation 3 amends the Superannuation Scheme Regulations. In particular, it provides for a survivor’s pension to be payable in respect of the member’s service from 1988 onwards. It also provides for the member to nominate their civil partner for a dependent’s pension. It sets out the conditions on which an officer or a practitioner with superannuable service before 1988 may elect to buy an increased surviving civil partner’s pension.

Regulation 4 amends the Injury Benefits Regulations. In particular it sets out the circumstances in which a pension is payable to a surviving civil partner and where a child allowance or a dependent’s allowance is payable. It further provides for the civil partner to receive a lump sum on death.

Regulation 5 amends the Additional Voluntary Contributions Regulations. In particular it provides for a surviving civil partner or a dependent civil partner to receive a pension where the member has elected to make additional voluntary contributions.

Regulation 6 amends the Compensation for Premature Retirement Regulations. In particular it provides for the officer to allocate part of his annual allowance in favour of his surviving civil partner. It also provides for compensation payments to be payable to the surviving civil partner and for the payment of a lump sum to be payable on the death of an officer.

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