

2012 No. 78

HEALTH AND PERSONAL SOCIAL SERVICES

**The Health and Personal Social Services (Superannuation),
Health and Social Care (Pension Scheme) (Amendment)
Regulations (Northern Ireland) 2012**

Made - - - - *29th February 2012*

Coming into operation - *1st April 2012*

The Department of Health, Social Services and Public Safety, with the consent of the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 12(1) and (2), 14(1), (2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a).

In accordance with Article 12(4) of that Order, the Department has consulted with representatives of persons likely to be affected by these Regulations, as appeared to the Department to be appropriate.

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012.

(2) These Regulations come into operation on 1st April 2012, and save as provided in paragraphs (3) to (5), shall have effect from that date.

(3) The following regulations shall have effect from 6th April 2011—

(a) regulation 7(4) in so far as it inserts new paragraphs (14) and (15) of regulation 89A of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(b) (Deduction of tax: further provisions);

(b) regulation 10(3).

(4) The following regulations shall have effect from 11th August 2011—

(a) 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13); 1993 c.49 (N.I.) and S.I. 2002/1555

(b) S.R. 1995 No.95 as amended by S.R. 1997 Nos.217 and 390; S.R. 1998 No.299; S.R. 2002 No.69; S.R. 2004 Nos. 103 and 104; S.R. 2005 Nos.155, 533, 534 and 565; S.R. 2006 Nos.159 and 410; S.R. 2008 Nos.96, 130 and 163; S.R. 2009 Nos.65 and 188; S.R. 2010 Nos.22, 286 and 420; S.R. 2011 No.256; S.R. 2012 No.42

- (a) regulation 7(4) in so far as it inserts new paragraphs (11) to (13) of regulation 89A of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (Deduction of tax: further provisions);
 - (b) regulations 16 and 20.
- (5) The following regulations shall have effect from 6th April 2012—
- (a) regulation 7(2) and (3);
 - (b) regulation 10(2).

PART 2

Amendment of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995

2. The Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 are amended as provided by regulations 3 to 8.

Amendment of regulation 2

3. In Regulation 2 (Interpretation) after “the 2008 Section” insert—

““the 2011 Act” means the Finance Act 2011(a);”.

Amendment of regulation 10

4.—(1) Regulation 10 (Contributions by members) is amended as provided by paragraphs (2) to (5).

(2) For paragraph (1A)(b) substitute—

“(1A) A member whose superannuable pay falls into a pay band specified in column 1 of the table below must contribute the percentage of the member’s superannuable pay specified in column 2 of that table in respect of that amount.

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable Pay band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%”.

(3) In paragraph (2)(c), for “the relevant table” substitute “the table in paragraph (1A)”.

(4) In paragraph (2B)(d) omit sub-paragraph (c).

(5) In paragraphs (2E) to (2R)(e), and (2V)(f), for “the relevant table in paragraph (2B)” in each place substitute “the table in paragraph (1A)”.

(a) 2011 c.11
 (b) Paragraph (1A) was substituted by S.R. 2009 No.188 regulation 4 and by S.R. 2010 No.420 regulation 3(2)
 (c) Paragraph (2) was substituted by S.R. 2009 No.188 regulation 4 and by S.R. 2010 No.420 regulation 3(3)
 (d) Paragraph (2B) was substituted by S.R. 2009 No.188 regulation 4 and by S.R. 2010 No.420 regulation 3(5)
 (e) Paragraphs (2E) to (2R) were substituted by 2009 No.188 regulation 4 and amended by S.R. 2010 No.420 regulation 3(6)
 (f) Paragraph (2V) was inserted by S.R. 2009 No.188 regulation 4 and amended by S.R. 2010 No.420 regulation 3(6)

Amendment of regulation 81

5. In regulation 81 (Former members of health service schemes)(a), for paragraph (1) substitute—

- “(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(b) 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.”.

Amendment of regulation 84

6. In regulation 84 (Suspension of pension on return to HSC employment) for paragraph (5)(a)(c) substitute—

- “(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”.

Amendment of regulation 89A

7.—(1) Regulation 89A (Deduction of tax: further provisions)(d) is amended as provided by paragraphs (2) to (4).

- (2) In paragraph (6) after “entitlement to” insert “transitional protection,”.
- (3) After paragraph (7) insert—

“(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, 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(e) in respect of that entitlement; and
- (b) the information referred to in paragraph (6).”.

- (4) For paragraph (11), substitute—

“(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

(a) Paragraph (1) was amended by S.R. 1998 No.299 regulation 10

(b) 1972 c.11

(c) Paragraph (5) was amended by S.R. 1998 No.299 regulation 12

(d) Regulation 89A was inserted by S.R. 2006 No.410 regulation 16 and amended by S.R. 2008 No.130 regulation 3(18); S.R. 2008 No.163 regulation 62; S.R. 2011 No.256 regulation 4 and S.R. 2012 No.42 regulation 8

(e) S.I. 2011/1752

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(a) 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.”.

Amendment of Schedule 2

8. In paragraph 10 of Schedule 2 (Contributions to this Section of the scheme)(b), for sub-paragraph (1A) substitute—

“(1A) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2010-2011 and the 2011-2012 scheme years, Table 1;
- (b) in respect of the 2012-2013 scheme year, Table 2.

Table 1

Scheme Years 2010-2011 and 2011-2012

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Table 2

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Superannuable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%

(a) S.I. 2006/567; regulation 15A was inserted by SI 2011/1797 regulation 9
 (b) Paragraph 10 was substituted by S.R. 2005 No.565 regulation 12(7) and amended by S.R. 2009 No.65 regulation 20(4); S.R. 2009 No.188 regulation 11(2); S.R. 2010 No.22 Schedule 1, paragraph 1(b) and S.R. 2010 No. 420 regulation 8. Sub-paragraph (1A) was inserted by S.R. 2010 No.420 regulation 8

PART 3

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

9. The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(a) are amended as provided by regulations 10 to 20.

Amendment of regulation 5

10.—(1) Regulation 5 (Provision of Information relevant for tax purposes)(b) is amended as provided by paragraphs (2) and (3).

(2) After paragraph (3) insert—

“(3A) If a person applying for a benefit under this Section of the Scheme 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, that person must give the Department the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 in respect of that entitlement.”.

(3) After paragraph (5) add—

“(6) Paragraph (7) applies to members who are practitioners or non-GP providers.

(7) The members referred to in paragraph (6) 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.”.

Amendment of regulation 6

11. In paragraph 1 of regulation 6 (Interpretation: general)—

(a) after “2008 Section Optant” insert—

““the 2011 Act” means the Finance Act 2011(c);”;

(b) in the definition of “corresponding health service scheme”(d) for sub-paragraph (b) substitute—

“(b) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered HSC employment on or before 1st April 2012, and”.

Amendment of regulation 28

12.—(1) Regulation 28 (Contribution rate for members other than non-GP providers)(e) is amended as provided by paragraphs (2) to (4).

(2) For paragraph (2) substitute—

(a) S.R. 2008 No.256 as amended by S.R. 2009 Nos. 65 and 188; S.R. 2010 Nos. 22, 286 and 420; S.R. 2011 No.256; S.R. 2012 No.42

(b) Regulation 5 was amended by S.R. 2010 No.22 regulation 15

(c) 2011 c.11

(d) The definition of “corresponding health service scheme” was substituted by S.R. 2009 No.65 regulation 24(b)

(e) Regulation 28 was substituted by S.R. 2010 No.420 regulation 12

“(2) A member’s contribution rate is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%”.

(3) In paragraph (3) for “the relevant table” substitute “the table in paragraph (2)”.

(4) Omit paragraph (5).

Amendment of regulation 29

13. In regulation 29 (Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers)(a) in paragraphs (4) to (17) and in paragraph (21) for “the relevant table in paragraph (4)” in each place substitute “the table in paragraph (2)”.

Amendment of regulation 30

14. In regulation 30 (Contribution rate and determination of pensionable earnings for non-GP providers)(b) for paragraph (14) substitute—

“(14) For the purposes of this regulation, “the relevant table” means—

- (a) in respect of the 2010-2011 and 2011-2012 scheme years, Table 1;
- (b) in respect of the 2012-2013 scheme year, Table 2.

Table 1

Scheme years 2010-2011 and 2011-2012

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Table 2

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26, 557	6.5%

(a) Regulation 29 was substituted by S.R. 2009 No.188 regulation 19 and amended by S.R. 2010 No.420 regulation 13(1). Paragraphs (4) to (17) and (21) were amended by S.R. 2010 No.420 regulation 13(3)

(b) Regulation 30 was substituted by S.R. 2010 No.420 regulation 14

£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%”.

Amendment of regulation 115

15. In regulation 115 (Application of Chapter 8)(a), in paragraph (2)(d) after “employment” insert “commencing on or before 31st March 2012”.

Amendment of regulation 131

16. In regulation 131 (Deduction of tax)(b) after paragraph (8) add—

“(9) Without prejudice to the generality of paragraph (1), a person who—

(a) is liable for 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,

may give notice in writing to the Department specifying that the Department and that person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(10) Unless the Department’s liability for an annual allowance charge referred to in paragraph (9) 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 person’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.”.

Amendment of regulation 137

17. In paragraph (1) of regulation 137 (Interpretation of Part 3: general)—

(a) after “2008 Section Optant” insert—

““the 2011 Act” means the Finance Act 2011;”;

(b) in the definition of “corresponding health service scheme”(c) for sub-paragraph (b) substitute—

“(b) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered HSC employment on or before the 1st April 2012, and”.

Amendment of regulation 161

18. In regulation 161 (Member’s contribution rate)(d) for paragraph (17)(e), substitute—

“(17) For the purposes of this regulation, the “relevant table” means—

(a) in respect of the 2010-2011 and the 2011-2012 scheme years, Table 1;

(b) in respect of the 2012-2013 scheme year, Table 2.

-
- (a) Regulation 115 was amended by S.R. 2010 No.22 Schedule 2 Part 1 paragraph 1
(b) Regulation 131 was amended by S.R. 2010 No.22 Schedule 2 Part 1 paragraph and S.R. 2012 No.42 regulation 20
(c) The definition of “corresponding health service scheme” was substituted by S.R. 2009 No.65 regulation 52(b)
(d) Regulation 161 was substituted by S.R. 2009 No.188 regulation 52 and amended by S.R. 2010 No.420 regulation 17
(e) Paragraph (17) was inserted by S.R. 2010 No.420 regulation 17(4)

Table 1
Scheme Years 2010-2011 and 2011-2012

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Table 2
Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%”.

Amendment of regulation 241

19. In regulation 241 (Application of Chapter 8)(a), in paragraph (3)(d) after “employment” insert “commencing on or before 31st March 2012”.

Amendment of regulation 255

20. In regulation 255 (Deduction of tax)(b) after paragraph (8) add—

“(9) Without prejudice to the generality of paragraph (1), a person 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,

may give notice in writing to the Department specifying that the Department and that person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(10) Unless the Department’s liability for an annual allowance charge referred to in paragraph (9) 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 person’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.”.

(a) Regulation 241 was amended by S.R. 2010 No.22 Schedule 2 Part 1 paragraph 1

(b) Regulation 255 was amended by S.R. 2010 No.22 Schedule 2 Part 1 paragraph 1 and by S.R. 2012 No.42 regulation 29

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
29th February 2012

(L.S.)

Diane Taylor

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

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

Sealed with the Official Seal of the Department of Finance and Personnel on 29th February 2012

(L.S.)

John McKibbin

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (S.R. 1995 No.95) (“the 1995 Regulations”) and the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 (S.R. 2008 No.256) (“the 2008 Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this rule are to take effect before the date of commencement. Article 14(1) of the Superannuation Order 1972 provides authority for the regulations specified in regulation 1(3) and (4) to take effect from a date earlier than the making of these Regulations.

Amendments consequent to the Finance Act 2011

Regulations 3, 7, 10, 11(a), 16, 17(a) and 20 amend various provisions of the 1995 and 2008 Regulations as a result of changes made by the Finance Act 2011(c.11) in relation to—

- (a) an individual’s annual allowance in respect of year on year increases to pension savings before those savings incur a tax charge (“an annual allowance charge”),
- (b) a new requirement that, in certain circumstances, a scheme is to pay an annual allowance charge and reduce an individual’s benefits accordingly, and
- (c) an individual’s lifetime allowance in respect of total pension savings before those savings incur a tax charge (“a lifetime allowance charge”), and the process by which an individual can protect that allowance at the current value.

Changes to employee contribution rates

Regulations 4, 8, 12, 13, 14, and 18 amend various provisions of the 1995 Regulations and the 2008 Regulations to provide for changes to pensionable pay bands or earnings bands and employee contribution percentage rates for the 2012 Scheme Year which is the period of one year beginning on the 1st April 2012 and ending on 31st March 2013.

Amendments consequent on the introduction of the Isle of Man Unified Public Service Pension Scheme on 1 April 2012

Regulations 5, 11(b) and 17(b) amend various provisions of the 1995 Regulations and 2008 Regulations so that the dedicated pension transfer arrangements for staff moving from the NHS in the Isle of Man to the HSC in Northern Ireland are discontinued in respect of staff joining on or after 2 April 2012. Provisions that abate and suspend pensions on re-employment in the Isle of Man after retirement are also discontinued by amendments at regulations 6, 15 and 19.

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STATUTORY RULES OF NORTHERN IRELAND

2012 No. 78

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