

2022 No.

HEALTH AND PERSONAL SOCIAL SERVICES

PUBLIC SERVICE PENSIONS

**The Health and Social Care Pension Schemes (Amendment)
Regulations (Northern Ireland) 2022**

Made - - - - xx March 2022

Coming into operation - xx April 2022

The Department of Health makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(e), 2(1) and 3(1) to (4) of, and paragraph 5 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014(a) (“2014 Act”).

In accordance 3(5) of the 2014 Act the regulations are made with the consent of the Department of Finance.

In accordance with section 21(1) of the 2014 Act, the Department has consulted the representatives of such persons as appear to the Department to be affected by these Regulations.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Health and Social Care Pension Schemes (Amendment) Regulations (Northern Ireland) 2022.

(2) These Regulations come into operation on xx April 2022.

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

2. In the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(b), in Part II (Membership) in regulation 8 (Restriction on further participation in the Scheme)(c), at the beginning insert—

“(A1) A person may not contribute to or accrue further superannuable service under this Section of the scheme in relation to the person’s service after 31st March 2022.

(A2) Paragraphs (1) to (18) of this regulation apply to a person’s service under this Section of the scheme before 1st April 2022.”.

(a) 2014 c.2 (N.I.)

(b) S.R. 1995 No.95

(c) Regulation 8 as amended by S.R. 2008 No.163, regulation 6; S.R. 2008 No.188, regulation 3 and S.R. 2015 No.122 Schedule 2, Paragraph 4

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

3.—(1) The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008(a) are amended as provided by paragraphs (2) and (3).

(2) In Part 2 (Benefits for officers), in Chapter 2 (Membership), in regulation 22 (Restrictions on eligibility: general)(b), at the beginning insert—

“(A1) A person is not eligible to be an active member of this Section of the Scheme in respect of service in HSC employment after 31st March 2022.

(A2) Paragraphs (1) to (11) of this regulation apply in respect of service in HSC employment before 1st April 2022.”.

(3) In Part 3 (Benefits for practitioners etc.), in Chapter 2 (Membership), in regulation 154 (Restrictions on eligibility: general)(c), at the beginning insert—

“(A1) A person is not eligible to be an active member of this Section of the Scheme in respect of practitioner service after 31st March 2022.

(A2) Paragraphs (1) to (9) of this regulation apply in respect of practitioner service before 1st April 2022.”.

Amendment of the Health and Social Care Pension Scheme Regulations 2015

4. In the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015(d), in regulation 19 (Restrictions on membership), for sub-paragraph (c) substitute—

“(c) is on 31st March 2022—

(i) a member of the 1995 Section who is no longer required to pay contributions pursuant to regulation 10(3) or (4) (Contributions by members: age and pensionable service limits)(e) of the 1995 Regulations; or

(ii) in relation to the 2008 Section, a non-contributing member within the meaning of regulation 6 (Interpretation: general - officers)(f) or 137 (Interpretation of Part 3: general – practitioners and out-of-hours providers)(g) of the 2008 Regulations;”.

Amendment of the Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations

5.—(1) The Health and Social Care Pension Scheme (Transitional and Consequential Provisions) (Northern Ireland) Regulations 2015(h) are amended as provided by paragraphs (2) to (10).

(2) In regulation 11 (Contribution rate setting: Groups A to C)—

(a) in paragraph (1), in the words before sub-paragraph (a), for “2015”, in the second place it occurs, substitute “2022”;

(b) in paragraph (2),—

(i) in the words before sub-paragraph (a), for “2015” substitute “2022”;

(a) S.R. 2008 No.256

(b) Regulation 22 as amended by S.R. 2009 No.65, regulation 30; S.R.2009 No.188, regulation 17; S.R. 2015 No.121, regulation 21; S.R. 2015 No.122, Schedule 2 Paragraph 11; S.R. 2016 No.384, regulation 8 and S.R. 2019 No.62, regulation 7

(c) Regulation 154 as amended by S.R. S.R.2009 No.65, regulation 59; S.R.2009 No.188, regulation 51; S.R. 2013 No.40, regulation 18; S.R. 2015 No.121, regulation 34 and S.R. 2015 No.122 Schedule 2 Paragraph 17

(d) S.R. 2015 No.120 to which there are amendments not relevant to these regulations

(e) Regulation 10(4) was amended by S.R. 2008 No.163, regulation 7(3)

(f) This definition of “non-contributing member” was inserted by S.R. 2009 No.188, regulation 14(b) and subsequently amended by paragraph 1 of Schedule 2 to S.R. 2010 No.22

(g) This definition of “non-contributing member” was inserted by S.R. 2009 No.188, regulation 50(b) and subsequently amended by paragraph 1 of Schedule 2 to S.R. 2010 No.22

(h) S.R. 2015 No.122

- (ii) in sub-paragraph (b), in the words before paragraph (i)—
 - (aa) for “2014” substitute “2021”;
 - (bb) for “2015” substitute “2022”.
- (3) In regulation 12 (Contribution rate setting: Group D)—
 - (a) in paragraph (1), in the words before sub-paragraph (a), for “2015”, in the second place it occurs, substitute “2022”;
 - (b) in paragraph (2), in the words before sub-paragraph (a), for “2015”, in the first place it occurs, substitute “2022”.
- (4) Regulation 18 (Uprating of old scheme practitioner earnings), is amended as follows—
 - (a) regulation 18 is renumbered “Regulation 18(1)”;
 - (b) for “In relation to” substitute “Subject to paragraphs (2) and (3), in relation to”;
 - (c) for “after 31st March 2015” substitute “in which the member is a member of the new scheme”;
 - (d) after newly-renumbered paragraph (1), insert—
 - “(2) Paragraph (3) applies if a practitioner transition member is purchasing additional service pursuant to regulation 22 (Existing additional service and unreduced lump sum contracts).
 - (3) Paragraph (1) does not apply for the purposes of calculating that member’s uprated pensionable earnings in relation to that purchase for the purposes of sub-paragraph (5) of paragraph 20 of Schedule 2 to the 1995 Regulations.”.
- (5) In regulation 25 (Decoupling of benefits derived from additional contributions)—
 - (a) in paragraph (2)—
 - (i) in sub-paragraph (a), after “72(3),” insert “or, if later, the date on which the member joins the new scheme,”;
 - (ii) in sub-paragraph (b), after “73A,” insert “or, if later, the date on which the member joins the new scheme,”;
 - (iii) in the words after sub-paragraph (b)—
 - (aa) after “date or”, omit “the member’s”;
 - (bb) at the end, insert “or, if later, the date on which the member joins the new scheme”;
 - (b) in paragraph (6), for the words from “requires,” to the end substitute—
 - “requires—
 - (a) no later than one month before the member’s chosen date or chosen birthday (as applicable); or
 - (b) if—
 - (i) the member joins the new scheme less than six months before the member’s chosen date or chosen birthday (as applicable); or
 - (ii) the member joins the new scheme on or after the member’s chosen date or chosen birthday (as applicable),
 no later than three months after the date on which the scheme administrator provides the notification referred to in paragraph (9).”;
 - (c) in paragraph (9), in the words before sub-paragraph (a), for the words from “Regulation” to the end substitute—
 - “regulation—
 - (a) at least six months before the member’s chosen date or chosen birthday (as applicable); or

- (b) if the member joins the new scheme at a time specified in paragraph (6)(b)(i) or (ii), no later than three months after the date on which the member joins the new scheme.”;
- (d) after paragraph (9), insert—
 - “(9A) A notice for the purpose of paragraph (9) must specify—
 - (a) the date on which any pension payable pursuant to this regulation would come into payment were an election to be made;
 - (b) the amount of any pension payable under this regulation (before any option to commute part of the pension into a lump sum); and
 - (c) the date by which the election under this regulation must be received by the scheme manager pursuant to paragraph (6).”.
- (6) In regulation 27 (Ill-health benefits: continuity of existing applications)—
 - (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), after “applies” insert “during the application period”;
 - (ii) in sub-paragraph (a)—
 - (aa) in the words before paragraph (i), for the words after “who,” substitute “on 1st April 2022 (“the transition date”)—”;
 - (bb) in paragraph (i), after “further” insert “pensionable”, for “Section—” substitute “Section; and” and omit sub-paragraph (aa), the “or” after it, sub-paragraph (bb) and the “and” after it;
 - (cc) in paragraph (ii), omit the words from “on” to the end;
 - (iii) in sub-paragraph (b)—
 - (aa) for “if” substitute “(if”;
 - (bb) for the words from “regulation 13A” to “2008 Section” substitute “1995 regulation 13A (Ill health pension on early retirement), 2008 regulation 52 or 2008 regulation 182 (Early retirement on ill-health: active members and non-contributing members)”;
 - (iv) in sub-paragraph (c)—
 - (aa) after “AW33” insert “(or such other form as the Department accepted)”;
 - (bb) after “evidence” insert “(“the member’s application for ill-health pension”)”;
 - (b) in paragraph (2)—
 - (i) for the words before sub-paragraph (a) substitute “For the purposes of paragraph (1), “the application period” in relation to a member is the period which ends with the day on which—”;
 - (ii) in sub-paragraph (b)—
 - (aa) after “to” insert “an”;
 - (bb) for the words from “under” to “applicable)” substitute “in respect of that application”;
 - (c) in paragraph (3)—
 - (i) for the words before sub-paragraph (a) substitute “For the purposes of paragraph (2)(b), a determination becomes final and binding when—”;
 - (ii) in sub-paragraph (a), for paragraph (iii) (but not the “or” after it) substitute—
 - “(iii) by proceedings before a court or tribunal;”;
 - (iii) in sub-paragraph (b), in the words before paragraph (i), in the first place it occurs, omit “that”;
 - (d) omit paragraphs (4) to (6);

- (e) at the end insert—
- “(7) Where this regulation applies—
- (a) the member’s application for ill-health pension is considered in accordance with paragraph (8) or (9) (whichever is relevant); and
 - (b) the member’s benefits, if any, are paid in accordance with paragraph (10) and the further provisions referred to in that paragraph (whichever are relevant).
- (8) If the member was in pensionable employment in the 1995 Section on 31st March 2022, the member’s application for ill-health pension is considered—
- (a) as an application for ill-health pension for the purposes of 2015 regulation 89 (Entitlement to ill-health pension); and
 - (b) as if it were also an application for ill-health pension for the purposes of 1995 regulation 13A.
- (9) If the member was an active member of the 2008 Section on 31st March 2022, the member’s application for ill-health pension is considered—
- (a) as an application for ill-health pension for the purposes of 2015 regulation 89; and
 - (b) as if it were also an application for ill-health pension for the purposes of 2008 regulation 52 or 2008 regulation 182.
- (10) The member’s benefits will be paid in accordance with—
- (a) paragraph (13) if, as a result of consideration under paragraph (8), the member satisfies the tier 1 condition or the tier 2 condition for the purposes of paragraph (2)(b)(i) or (ii) of 1995 regulation 13A (together “the 1995 regulation 13A ill-health conditions”) but does not satisfy the Tier 1 condition or the Tier 2 condition for the purposes of paragraph (2)(c) or (3)(b) of 2015 regulation 89 (together “the 2015 regulation 89 ill-health conditions”);
 - (b) Paragraph (14) if, as a result of consideration under paragraph (9), the member satisfies the condition at paragraph (2)(a) or (3)(a) of 2008 regulation 52 or 2008 regulation 182 (together “the 2008 ill-health conditions”) but does not satisfy either of the 2015 regulation 89 ill-health conditions;
 - (c) paragraph (16) if—
 - (i) as a result of—
 - (aa) consideration under paragraph (8), the member satisfies one or both of the 1995 regulation 13A ill-health conditions and one or both of the 2015 regulation 89 ill-health conditions; or
 - (bb) consideration under paragraph (9), the member satisfies one or both of the 2008 ill-health conditions and one or both of the 2015 regulation 89 ill-health conditions; and
 - (ii) the annual rate of ill-health pension to which the member would have been entitled under 1995 regulation 13A, 2008 regulation 52 or 2008 regulation 182 if the member had retired from pensionable employment or ceased HSC employment on 31st March 2022 is, subject to paragraphs (11) and (12), greater than the annual rate of ill-health pension to which the member is entitled under paragraph (3)(a) or (4) of regulation 28 (Ill health benefits: members below old scheme normal pension age) as at the date the member ceased HSC employment for the purposes of the 2015 Regulations (“the pension comparison calculation”);
 - (d) regulation 28(3) or (4) if—
 - (i) sub-paragraph (c)(i)(aa) or (bb) applies to the member; and
 - (ii) the annual rate of ill-health pension payable to the member under regulation 28(3)(a) or (4) is greater than the annual rate of ill-health pension to which the member would have been entitled under 1995 regulation 13A, 2008 regulation 52 or 2008 regulation 182, as determined in accordance with the pension

comparison calculation, if the member had retired from pensionable employment or ceased HSC employment on 31st March 2022.

(11) If the member was in pensionable employment in the 1995 Section on 31st March 2022, for the purposes of the pension comparison calculation, the pensions (“P”) under—

- (a) 1995 regulation 13A; and
- (b) regulation 28(3)(a)(ii),

are each increased by the amount found by applying the formula—

$$3 \times P/12$$

(12) If the member was an active member of the 2008 Section on 31st March 2022 who is entitled to a lump sum (“LS”) under regulation 28(3)(b)(ii) or (iii), for the purposes of the pension comparison calculation, the pensions under—

- (a) 2008 regulation 52 or 2008 regulation 182; and
- (b) regulation 28(3)(a)(ii),

are each increased by the amount found by applying the formula—

$$LS/12$$

(13) Where this paragraph applies to the member (see paragraph (10)(a)), the annual rate of ill-health pension and the lump sum payable from the new scheme is equal to—

- (a) either—
 - (i) if the member satisfies the tier 1 condition in paragraph (2)(b)(i) of 1995 regulation 13A, the tier 1 ill-health pension the member would have been entitled to under that regulation if the member had retired from pensionable employment on 31st March 2022; or
 - (ii) if the member satisfies the tier 2 condition in paragraph (2)(b)(ii) of 1995 regulation 13A, the tier 2 ill-health pension the member would have been entitled to under that regulation if the member had retired from pensionable employment on 31st March 2022; and
- (b) the lump sum to which the member would have been entitled under regulation 17 (Lump sum on retirement)(a) of the 1995 Regulations as a consequence of becoming entitled to the payment of one of those pensions.

(14) Where this paragraph applies to the member (see paragraph (10)(b)), the annual rate of ill-health pension and the lump sum payable from the new scheme is equal to—

- (a) if the member satisfies the tier 1 condition in paragraph (2)(a) of 2008 regulation 52 or 2008 regulation 182, the tier 1 ill-health pension the member would have been entitled to under whichever of those regulations applies to the member if the member had ceased to be employed in HSC employment on 31st March 2022; or
- (b) if the member satisfies the tier 2 condition in paragraph (3)(a) of 2008 regulation 52 or 2008 regulation 182, the tier 2 ill-health pension the member would have been entitled to under whichever of those regulations applies to the member if the member had ceased to be employed in HSC employment on 31st March 2022.

(15) On the payment of a pension to a member in accordance with paragraph (13) or (14), all rights in respect of that member under the old scheme are extinguished.

(16) Where this paragraph applies to the member (see paragraph (10)(c))—

(a) Regulation 17 as amended by S.R. 2006 No.410, regulation 9; S.R. 2009 No.188, regulation 6; S.R. 2010 No.286, regulation 7 and S.R. 2012 No.42, regulation 5

- (a) the annual rate of ill-health pension payable from the new scheme under regulation 28 is increased by an amount equal to the difference between the annual rate of the member's ill-health pension under 1995 regulation 13A, 2008 regulation 52 or 2008 regulation 182 and the annual rate of the member's ill-health pension under regulation 28(3)(a) or (4), determined in accordance with the pension comparison calculation; and
- (b) that increase is applied to the member's ill-health pension under regulation 28 after the calculation of the Tier 2 addition (if any) in accordance with paragraph (4)(b) of that regulation.

(17) Paragraphs (18) and (19) apply if a member receiving an ill-health pension under paragraph (10)(a) or (b) dies ("the deceased member").

(18) If a surviving adult dependant of the deceased member is entitled to a pension in accordance with regulation 115 (Amount of pension: survivor of pensioner member) of the 2015 Regulations, the annual rate of the adult survivor pension payable under paragraph (4)(a) of that regulation is—

- (a) 50% of the pension to which the member was entitled at the date of death (disregarding any additional pension) if the member was receiving a pension under paragraph (13) of this regulation on that date; and
- (b) 37.5% of the pension to which the member was entitled at the date of death (disregarding any additional pension) if the member was receiving a pension under paragraph (14) of this regulation on that date.

(19) If a child's pension becomes payable in respect of an eligible child of the deceased member in accordance with regulation 123 (Amount of child pension: deceased pensioner member) of the 2015 Regulations, the basic death pension for the purposes of paragraph (3)(a) of that regulation is—

- (a) 100% of the pension to which the member was entitled at the date of death (disregarding any additional pension) if the member was receiving a pension under paragraph (13) of this regulation on that date; and
- (b) 75% of the pension to which the member was entitled at the date of death (disregarding any additional pension) if the member was receiving a pension under paragraph (14) of this regulation on that date.

(20) For the purposes of the 2015 Regulations—

- (a) a member's pension entitlement under the new scheme that is equivalent to entitlement to one of the following pensions is treated as if it were entitlement to an ill-health pension at Tier 1 under 2015 regulation 89—
 - (i) a tier 1 pension under 1995 regulation 13A referred to in paragraph (13)(a)(i);
 - (ii) a tier 1 pension under 2008 regulation 52 or 2008 regulation 182 referred to in paragraph (14)(a);
- (b) a member's pension entitlement under the new scheme that is equivalent to entitlement to one of the following pensions is treated as if it were entitlement to an ill-health pension at Tier 2 under 2015 regulation 89—
 - (i) a tier 2 pension under 1995 regulation 13A referred to in paragraph (13)(a)(ii);
 - (ii) a tier 2 pension under 2008 regulation 52 or 2008 regulation 182 referred to in paragraph (14)(b);
 - (iii) a pension under regulation 28 that is increased in accordance with paragraph (16) by an amount equal to the difference between the annual rate of the ill-health pension payable under regulation 28(3)(a) and the annual rate of the member's tier 2 ill-health pension under 1995 regulation 13A, 2008 regulation 52 or 2008 regulation 182 as determined in accordance with the pension comparison calculation.

(21) In this regulation—

“1995 regulation 13A” means regulation 13A of the 1995 Regulations;
“1995 regulation 13A ill-health conditions” has the meaning given in paragraph (10)(a);
“2008 regulation 52” means regulation 52 of the 2008 Regulations;
“2008 regulation 182” means regulation 182 of the 2008 Regulations;
“2015 regulation 89” means regulation 89 of the 2015 Regulations;
“the 2008 ill-health conditions” has the meaning given in paragraph (10)(b);
“the 2015 regulation 89 ill-health conditions” has the meaning given in paragraph (10)(a);
“the deceased member” has the meaning given in paragraph (17);
“the member’s application for ill-health pension” has the meaning give in paragraph (1)(c);
“the pension comparison calculation” has the meaning given in paragraph (10)(c)(ii).”.

(7) In regulation 28 (Ill health benefits: members below old scheme normal pension age) after paragraph (6) insert—

“(6A) Paragraphs (6B) and (6C) apply if a member receiving an ill health pension under this regulation dies before reaching old scheme normal pension age.

(6B) If a surviving adult dependant of the member is entitled to a pension in accordance with regulation 115 (Amount of pension: survivor of pensioner member) of the 2015 Regulations the annual rate of the adult survivor pension payable under paragraph (4)(a) of that regulation is—

- (a) if the member was in pensionable employment in the 1995 Section before becoming an active member of the new scheme, the sum of—
 - (i) 33.75% of the pension to which the member was entitled at the date of death (disregarding any additional pension) under the new scheme;
 - (ii) 16.25% of the amount (if any) by which that pension has been increased in accordance with regulation 27(16); and
 - (iii) 16.25% of the old scheme pension to which the member was entitled at the date of death in accordance with paragraph (3)(a)(ii) of this regulation; or
- (b) if the member was an active member of the 2008 Section before becoming an active member of the new scheme, the sum of—
 - (i) 33.75% of the pension to which the member was entitled at the date of death (disregarding any additional pension) under the new scheme;
 - (ii) 3.75% of the amount (if any) by which that pension has been increased in accordance with regulation 27(16); and
 - (iii) 3.75% of the old scheme pension to which the member was entitled at the date of death in accordance with paragraph (3)(a)(ii) of this regulation.

(6C) If a child’s pension becomes payable in respect of an eligible child of the member in accordance with regulation 123 (Amount of child pension: deceased pensioner member) of the 2015 Regulations the basic death pension for the purposes of paragraph (3)(a) of that regulation is—

- (a) if the member was in pensionable employment in the 1995 Section before becoming an active member of the new scheme, the sum of—
 - (i) 67.5% of the deceased member’s annual pension (disregarding any additional pension) under the new scheme;
 - (ii) 32.5% of the amount (if any) by which that pension has been increased in accordance with regulation 27(16); and
 - (iii) 32.5% of the old scheme pension to which the member was entitled at the date of death in accordance with paragraph (3)(a)(ii) of this regulation; or

- (b) if the member was an active member of the 2008 Section before becoming an active member of the new scheme, the sum of—
 - (i) 67.5% of the deceased member’s annual pension (disregarding any additional pension) under the new scheme;
 - (ii) 7.5% of the amount (if any) by which that pension has been increased in accordance with regulation 27(16); and
 - (iii) 7.5% of the old scheme pension to which the member was entitled at the date of death in accordance with paragraph (3)(a)(ii) of this regulation.”.

(8) In regulation 35(1) (Variations to lump sums for 1995 and 2008 pensioners joining new scheme)—

- (a) for “and 6” substitute “, 6 and 7”;
- (b) after “1 to 4”, in the second place it occurs, insert “, 6 and 7”.

(9) In regulation 38(1) (Death in service – entitlement of or in respect of a transition member), in the words before the table, for “transitional”, in both places it occurs, substitute “transition”.

(10) In Schedule 1 (Eligibility of pensioners)—

- (a) in paragraph 1 (Eligibility of 1995 Section pensioners to join new scheme), at the end of the table insert—

“7	a 1995 Section member in receipt of a pension under regulation 13 or a tier 1 pension under regulation 13A of the 1995 Regulations who— (a) is in further superannuable employment in the 1995 Section on 31st March 2022; or (b) would have been eligible to join the 1995 Section on 31st March 2022 if the member had been in employment with an employing authority on that day.	eligible to be an active member of the new scheme on the first day on or after 1st April 2022 on which the member is in an employment that would, apart from the operation of regulation 19(d) of the 2015 Regulations, otherwise be eligible for membership under those Regulations.
8	a 1995 Section member in receipt of a redundancy etc. pension under regulation 14 or a termination of employment pension under regulation 14A of the 1995 Regulations who— (a) made an election under paragraph (6) of regulation 77 of the 1995 Regulations in respect of that pension; (b) is in further pensionable employment in the 1995 Section on 31st March 2022; or (c) would have been eligible to join the 1995 Section on 31st March 2022 if the member had been in employment with an employing authority on that day.	eligible to be an active member of the new scheme on the first day on or after 1st April 2022 on which the member is in an employment that would, apart from the operation of regulation 19(d) of the 2015 Regulations, otherwise be eligible for membership under those Regulations.”;

- (b) in paragraph 2 (Eligibility of 2008 Section pensioners to join new scheme), in the table—
 - (i) in the row in respect of Group 4, in column 2, for “regulation 113(5)(b)” substitute “regulation 112(5)(b)”;
 - (ii) at the end, insert—

“6	<p>a 2008 Section pensioner other than a tier 2 ill-health pensioner who—</p> <p>(a) is also an active member of the 2008 Section on 31st March 2022; or</p> <p>(b) would have been eligible to be an active member of the 2008 Section if the member had been in HSC employment on that day.</p>	<p>eligible to be an active member of the new scheme on the first day on or after 1st April 2022 on which the member is in an employment that would, apart from the operation of regulation 19(d) of the 2015 Regulations, otherwise be eligible for membership under those Regulations.</p>
7	<p>a tier 2 ill-health pensioner—</p> <p>(a) who returns to HSC employment and the first anniversary of that return is on or after 1st April 2022;</p> <p>(b) to whom regulation 112(5)(b) or 239(5)(b) of the 2008 Regulations applies; and</p> <p>(c) on the first anniversary of the return to HSC employment that person is not eligible to re-join the 2008 Section pursuant to regulation 22(A1) or 154(A1) of the 2008 Regulations.</p>	<p>eligible to be an active member of the new scheme on the first day on or after the first anniversary of return to NHS employment on which the member is in an employment that would, apart from the operation of regulation 19(d) of the 2015 Regulations, otherwise be eligible for membership under those Regulations.”.</p>

Sealed with the Official Seal of the Department of Health on xx April 2022

(L.S.)

A senior officer of the Department of Health

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

Sealed with the Official Seal of the Department of Finance on xx April 2022

(L.S.)

A senior officer of the Department of Finance

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Health and Social Care pension scheme rules in consequence of provision made by the Public Service Pensions and Judicial Offices Act 2022 (c. [number]).

They further amend the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995 (S.R. 1995 No.96) (“the 1995 Regulations”), the Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008 (S.R. 2008 No.256) (“the 2008 Regulations”), the Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015 (S.R. 2015 No.120) (“the 2015 Regulations”) and the Health and Social Care Pension Scheme (Transitional and Consequential Provisions) Regulations (Northern Ireland) 2015 (S.R. 2015 No.122) (“the Transitional Regulations”). The amendments ensure that the pension schemes established by the 1995 Regulations (“the 1995 Section”) and the 2008 Regulations (“the 2008 Section”) will, except for limited purposes, be closed to the accrual of pension benefits on and after 1st April 2022 and that any members currently in pensionable service under those pension schemes will, on that date, begin accruing benefits in the scheme established by the 2015 Regulations.

Regulation 2 amends the 1995 Regulations to make it clear on the face of those Regulations that the further contribution to or accrual of pensionable service after 31st March 2022 by members who had been allowed to remain after 31st March 2015 in the 1995 Section is prohibited and the transitional protections introduced for those members on 1st April 2015 apply only in respect of service before 1st April 2022. Regulation 3 amends the 2008 Regulations for the same purpose and in an equivalent way in relation to members who had been allowed to remain after 31st March 2015 in the 2008 Section).

In this note, reference to the “the legacy scheme” includes the 1995 Section and the 2008 Section and reference to “the new scheme” is a reference to the pension scheme established by the 2015 Regulations.

Regulation 4 amends the 2015 Regulations so that members of the legacy scheme (other than pensioners) whose accrual of pensionable service ceased in that scheme on 31st March 2022 are eligible to join the new scheme from 1st April 2022.

Regulation 5 amends the Transitional Regulations, which apply to persons who are members of the legacy scheme and the scheme established by the 2015 Regulations (“the new scheme”), as follows.

Paragraphs (2) and (3) amend regulations relating to the setting of contribution rates for the scheme year commencing 1st April 2022. Paragraph (2) amends the regulation applicable to employed members of the new scheme to provide that where the member’s contribution rate is to be set by reference to that member’s pensionable earnings during a previous scheme year, those earnings can be derived from the member’s service in the legacy scheme. Paragraph (3) amends the regulation applicable to self-employed practitioners and non-GP providers to provide that where the member’s contribution rate is to be set by reference to that member’s most recently certified or final pensionable earnings, those earnings can be also derived from the member’s service in the legacy scheme.

Paragraph (4) amends the regulation relating to the uprating of the earnings of practitioners who are members of the legacy scheme and the new scheme so that it applies after such a member joins the new scheme on or after 1st April 2022.

Paragraph (5) amends the regulation which provides for members of the 1995 Section to elect to take benefits derived from additional voluntary contributions at their chosen birthday without having to retire so that it also allows for elections by reference to the date on which the member

joins the new scheme in circumstances where members have passed or are near to their chosen birthday on that date.

Paragraphs (6) and (7) amend the regulations which set out transitional arrangements relating to ill-health benefits to ensure that legacy members and their dependants are not placed in a less beneficial position than they would have been in had the outcome of their application been determined under legacy scheme criteria and their retirement on ill-health grounds had taken place before the closure of the legacy scheme on 31st March 2022.

Paragraph (10)(a) and (b)(ii) adds to the groups of legacy scheme pensioners set out in Schedule 1 so that re-employed pensioners no longer able to accrue benefits in that scheme from 1st April 2022 are eligible to join the new scheme from that date. Paragraph (8) amends the regulation which provides for which of the pensioner groups set out in Schedule 1 are entitled to a lump sum death benefit different from the one otherwise provided to active members of the new scheme by adding the new groups inserted by paragraph (10)(a) and (b)(ii).

Paragraphs (6)(a)(iii)(aa) and (iv)(aa), (b)(ii)(aa) and (c)(ii) and (9) and (10)(b)(i) correct pre-existing errors in the Transitional Regulations.

A full impact assessment has not been produced for this rule as no, or no significant, impact on the private, voluntary or public sector is foreseen.