

**1995 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*

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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 1972<sup>(a)</sup> and 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

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(a) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)

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(a);

“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(b);

“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(c) (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;

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

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

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

“employing authority” means—

(a) a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972, and

(b) a Health and Social Services Trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(d) (HSS Trusts), and

(c) the Agency, and

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(a) S.R. 1984 No. 336 as amended by S.R. 1988 No. 271, S.R. 1989 No. 173, S.R. 1990 No. 62, S.R. 1990 No. 121 and S.R. 1994 No. 203

(b) S.I. 1972/1265 (N.I. 14)

(c) 1993 c. 49 (N.I.). See also section 77 of that Act

(d) S.I. 1991/194 (N.I. 1)

(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(8), and

(e) any other body that is constituted under an enactment relating to health services and which the Department agrees to treat as an employing authority for the purposes of the scheme;

“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;

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

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

“HPSS employment” means employment with an employing authority;

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

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

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

(a) approved by the Inland Revenue for the purposes of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(b) (Personal Pension Schemes) or whose application for approval under that Chapter is under consideration,

(b) a statutory scheme as defined in section 612(1) of the Income and Corporation Taxes Act 1988 (interpretation), or

(c) a scheme to which section 608 of the Income and Corporation Taxes Act 1988 applies (superannuation funds approved before 6th April 1980);

“officer” means a person employed by an employing authority;

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

“pay period” means, in the case of an officer, the period in respect of which each payment of salary or wages is made in accordance with the officer’s contract of employment and, in the case of a practitioner, any period of three months ending on the last day of March, June, September or December;

“personal pension scheme” means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation

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(a) 1979 c. 36

(b) 1988 c. 1

Taxes Act 1988 (Personal Pension Schemes) which is approved by the Inland Revenue for the purposes of that Chapter;

“practitioner” means a medical or dental practitioner, other than a trainee practitioner or a person who is paid by an employing authority wholly by way of salary;

“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;

“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;

“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);

“scheme”, means the Health and Personal Social Services Superannuation Scheme for Northern Ireland, the rules of which are set out in these Regulations;

“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 HPSS employment in respect of which the member contributes to the scheme;

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

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

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

“trainee practitioner” means a person who is being trained in general medical practice as a trainee general practitioner under arrangements made by the Department.

#### *Meaning of “superannuable pay”*

**3.—(1)** In these Regulations, “superannuable pay” means, subject to the provisions of this regulation, 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 or payments made to cover expenses or payments for overtime.

(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) Superannuable pay in excess of the permitted maximum will not be ignored in the case of a member who joined the scheme before 1st June 1989 except in relation to a period following a break in superannuable employment on or after that date.

(4) Except for the purposes of paragraph (3), no account shall be taken of a break in superannuable employment if—

- (a) the member returns to superannuable employment within 12 months after leaving;
- (b) 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;
- (c) the break is due to the member being engaged in other employment which is approved for this purpose by the Department;
- (d) 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; or
- (e) 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 1976(a) and returns to superannuable employment no later than one month after returning to work.

(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) In these Regulations, "final year's superannuable pay" means superannuable pay in respect of the member's 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—

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(a) S.I. 1976/2147 (N.I. 28), modified by S.R. 1991 No. 127 and amended by the Social Security (N.I.) Order 1989 (S.I. 1989/1342 (N.I. 13)) Article 25 Schedule 5 Part II paragraph 15

$$\frac{\text{superannuable pay} \times 365}{\text{number of days superannuable employment}}$$

(7) In this regulation “the permitted maximum” means the same as in section 590C of the Income and Corporation Taxes Act 1988 (earnings cap)(a).

*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 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(b) (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 the scheme) or as a result of a transfer payment to the scheme under the previous regulations; and
- (e) 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.

(2) 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 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).

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(a) 1988 c. 1, section 590C was inserted by section 75 of, and Part I of Schedule 6 to, the Finance Act 1989

(b) S.R. 1978 No. 324

(3) The benefits described in these Regulations will be calculated by reference to a maximum of 45 years' superannuable service of which only 40 years may relate to the period before the member reaches age 60 (age 55 if the member is a special class officer). If the member's 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; 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.

(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 the scheme will be treated as qualifying service.

## PART II

### MEMBERSHIP

#### *Membership of the scheme*

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

(a) officers; and

(b) medical and dental practitioners and trainee practitioners.

(2) Subject to paragraph (3), each eligible person, on commencing HPSS employment, shall be included in the scheme automatically, unless the person opts not to be included.

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

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

#### *Restrictions on membership*

**7.** The following persons may not join the scheme—

(a) persons under age 16 or over age 70;

(b) special class officers over age 65;

(c) persons eligible to participate in a superannuation scheme established under Article 11 of the Superannuation (Northern Ireland) Order 1972;

(d) persons who hold honorary appointments and do not at the same time hold any other employment which entitles them to join the scheme.

*Restrictions on further participation in the scheme*

**8.**—(1) Persons who cease to satisfy the conditions for eligibility for membership specified in regulations 6 and 7 may not contribute to or accrue further superannuable service under the scheme.

(2) Persons whose pensions under the scheme are payable may not contribute to or accrue further superannuable service under the scheme, except in the cases referred to in regulation 13(11) (further superannuable employment under the age of 50 after early retirement pension becomes payable on grounds of ill-health) and regulation 77(6) (further superannuable employment where early retirement pension becomes payable in respect of concurrent employment on grounds of redundancy).

*Opting out of the scheme*

**9.**—(1) A person who does not wish to, or who no longer wishes to, participate in the scheme may opt out 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.

(2) Subject to paragraph (3) the notice shall take effect from the first day of the pay period immediately following its receipt by the employing authority unless a later date is specified in the notice.

(3) A person who opts out of the scheme before the end of the pay period during which the employing authority included that person in the scheme will be treated as never having been included in the scheme.

(4) A notice under paragraph (1) will apply to any subsequent employment with the same employing authority.

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

(6) A person who has opted out may not rejoin the scheme during a 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 the scheme.

*Contributions by members*

**10.**—(1) Each member in superannuable employment must contribute to the scheme.

(2) Members whose employment is by way of manual labour must contribute 5 per cent of their superannuable pay. Other members must contribute 6 per cent of their superannuable pay.

(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 70, or completes 45 years' superannuable service and reaches age 65.

(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 21st day of the month following the month in which the earnings were paid.

*Contributions by employing authorities*

**11.**—(1) Each employing authority must contribute to the scheme, in respect of each member in superannuable employment with the authority, at such rate as the Department specifies from time to time.

(2) The Department shall consult the Government Actuary and obtain the consent of the Department of Finance and Personnel before specifying the rate at which employing authorities must contribute to the scheme under paragraph (1).

(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 15 (Early retirement pension (employer's consent)) 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 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 under regulation 15 (Early retirement pension (employer's consent)) for the period between the member's leaving superannuable employment and reaching age 60;
- (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 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(a);

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(a) S.R. 1983 No. 155, as amended by S.R. 1986 No. 322 and S.R. 1991 No. 506

- (e) the cost of providing any increase under Part I of the Pensions (Increase) Act Northern Ireland) 1971(a) in 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 Government 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 Government 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 Government 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 31 st 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 Government Actuary, made within one month of the date on which the Department's consent is given to the employing authority, or

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(a) 1971 c. 35 (N.I.). Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3)

(b) not more than 5 equal annual instalments each of an amount determined by the Department, on the advice of the Government 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 31 st 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 Government Actuary, made within one month of the date on which the pension under regulation 15 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 Government Actuary, the first of which to be made within one month of the date on which the pension under regulation 15 became payable and the others to be paid by 31st October in each of the following 4 financial years.

### 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 70 shall be entitled to receive a pension under this regulation at that age even if he does not retire from such employment.

##### *Early retirement pension (ill health)*

**13.**—(1) A member 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.

(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) will be equal to 5 times the difference between the yearly rate of the member's incapacity 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 on retirement payable under regulation 17), and 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).

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

*Early retirement pension (redundancy etc)*

**14.**—(1) A member whose superannuable employment is terminated by his employing authority shall be entitled to a pension if:

- (a) he has at least 5 years qualifying service and has reached age 50, and

(b) the Department certifies that the member's employment is terminated by reason of redundancy or in the interests of the efficiency of the service in which he is employed.

(2) The pension under this regulation will be calculated as described in regulation 12 (Normal retirement pension).

*Early retirement pension (employer's consent)*

**15.**—(1) A member with at least 2 years qualifying service, who retires from superannuable employment at any time after reaching age 50 shall, if the relevant employing authority agrees to meet the cost described in regulation 11(3)(b) (plus any supplement or increase in that cost under regulation 11(3)(c), (e) or (f), 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).

*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 age 50 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) but it will then be reduced by such amount as the Department, after consulting the Government 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 Government 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) 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 (3) and (7), the retirement lump sum will be equal to 3 times the yearly rate of the pension.

(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 the 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 the 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 be reduced by such amount as the Department, after consulting the Government Actuary, shall determine.

#### LUMP SUM ON DEATH

##### *Member dies in superannuable employment*

**18.**—(1) If a member dies in superannuable employment before reaching age 70, a lump sum on death shall be payable in accordance with regulation 22.

(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) If a member dies after his pension under 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 member's retirement lump sum paid under regulation 17 (Lump sum on retirement).

##### *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 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) If the member dies and leaves a surviving widow or widower, the lump sum on death shall be payable to the widow or widower, unless the member has given notice to the Department that the widow or widower is not to receive the payment.

(2) Notice to the Department under paragraph (1) shall be given in writing and may similarly be cancelled.

(3) If the lump sum on death is not paid to the member's widow or widower, or if there is no surviving widow or widower, it shall be payable to the member's personal representative.

(4) 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 the lump sum, without requiring proof of the title of the person concerned.

(5) In paragraph (4), 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(a) as the amount to be treated as substituted for references to £500 in section 1 of that Act.

WIDOWS AND WIDOWERS

*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.

(2) 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 s husband and wife; and

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(a) 1967 c. 5 (N.I.)

(b) the widow shall cease to be entitled to widow's pension if she remarries.

(3) Nothing in paragraph (2) shall affect any entitlement to a widow's guaranteed minimum pension under the scheme.

(4) The Department may pay a pension to a widow who has remarried, or who is living together as husband and wife with a man to whom she is not married, if it is satisfied that the widow will otherwise suffer severe financial hardship.

(5) The Department may pay a pension to a widow who has remarried if the later marriage comes to an end and it is satisfied that the widow will otherwise suffer hardship.

(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 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.

(4) Except while the widow's pension is payable at the rate mentioned in paragraph (2), 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 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), 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 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(a).

*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 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 purpose of paragraph (2), no account will be taken of any reduction to the member's pension under regulation 85 (Reduction of pension on return to HPSS employment).

(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).

*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 dies within 12 months after leaving superannuable employment, the widow's pension will be equal to one-half of the pension that would have been payable to the member under 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 left superannuable employment).

(3) If the member dies 12 months or more after 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 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).

#### *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) Where regulation 24(3) or 26(2) 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), in the superannuable service on which the member's pension under regulation 13 (Early retirement pension (ill health)) 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's widowers 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) 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 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<sup>(a)</sup> (Purchase of increased widower's pension).

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(a) Regulation 15B was inserted into the previous Regulations by Regulation 10(2) of S.R. 1990 No. 62

(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) 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<sup>(a)</sup>, 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.

#### 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 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 (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.

and who satisfies the requirements of paragraph (2).

(2) 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 either is dependent on the member both

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(a) Schedule 7A was inserted into the previous Regulations by regulation 10(3) of S.R. 1990 No. 62

immediately after being born and when the member dies, or would have become dependent on the member if the member had not died before the child was born.

(3) A child is a dependent child for so long as he is—

(a) under age 17; or

(b) aged 17 or over and continuing in full-time education; or

(c) aged 17 or over 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 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.

(4) A child who is aged 17 or over 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(a) at the date in question (calculated as if the words “for a period of not less than two years” in section 3(3)(d) of that Act were omitted), 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 or from which he started to suffer whilst qualifying as a dependent child will be treated as a dependent child for so long as he remains incapable of earning a living.

#### *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.

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(a) 1971 c. 35 (N.I.). Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3)

(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), 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 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.

(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 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.

(5) If a widow's or widower'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 or widower until the end of the first 6 months after the member's death.

(6) If a widow's or widower'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 or widower, 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 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 of a parent) but there is no entitlement to a widow's or widower's pension under regulation 24 (Member dies in superannuable employment), the allowance will be paid at the rates described in paragraph (7).

*Member dies after pension becomes payable*

**35.**—(1) The child allowance payable in the case of a member who dies after a pension under the scheme becomes payable will be as described in this regulation.

(2) Subject to paragraph (8) the allowance will be calculated, as described in whichever of paragraphs (3) or (4) apply, 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.

(3) If the member dies leaving a dependent child and there is a surviving parent (or spouse 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 spouse 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 member's pension calculated without regard to any reduction made under regulation 85 (Reduction of pension on return to HPSS employment).

(5) If the member dies leaving a dependent child and there is a surviving parent (or spouse of a parent) but there is no entitlement to a widow's or widower'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 or widower'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 or widower until the end of the first 6 months after the member's death.

(7) If a widow's or widower'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 or widower, 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).

*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) 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(2) and where applicable 34(3) as if the member had died on the day he left superannuable employment.

(3) If the member dies 12 months or more 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 member's preserved pension or, if greater, the amount 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 of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2) or (3) (whichever is applicable) if there is only one dependent child, and one-half if there are two or more.

(5) If the member dies leaving a dependent child and there is no surviving parent (or spouse of a parent), the allowance will be equal to one-third of the pension described in paragraph (2) or (3) (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 of a parent) but there is no entitlement to a widow's or widower'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 of a parent) and at least one dependent child who is not being maintained by the surviving parent (or spouse 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 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 the scheme so as to provide, following his death, a pension for a spouse or a dependant.

(2) Any pension provided for a spouse under this regulation shall be payable in addition to any other widow's or widower's pension under these Regulations.

(3) Any pension provided under this regulation will be calculated in accordance with tables prepared by the Government Actuary.

(4) A member wishing to allocate part of his pension under this regulation may elect to do so—

- (a) on, or within one month after, the date on which a pension under the scheme becomes payable to him under the scheme; or
- (b) if in superannuable employment, at any time after reaching age 60 (55 for special class officers) and completing 40 years' superannuable service; or
- (c) 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 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 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 or spouse'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 or spouse 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 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 or spouse 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 REQUIREMENT

*Contracting-out requirements to be overriding*

**42.** The scheme will be administered in conformity with the contracting-out requirements and regulations 43 to 48 override any inconsistent regulations except regulation 94 (Commutation of trivial pensions).

*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 the scheme, in accordance with section 10 of the Pension Schemes (Northern Ireland) Act 1993 (earner's guaranteed minimum).

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(a) 1993 c. 49 (N.I.)

(2) The weekly rate of the member's pension from State 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 year 1988-89 and subsequent tax years.

(5) The part of any guaranteed minimum pension that is attributable to earnings for the tax year 1988-89 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) If on leaving superannuable employment a member becomes entitled to a refund of contributions under regulation 50 (Refund of contributions) or exercises a right to require a transfer or buy-out in accordance with regulation 53 (Member's right to transfer or buy-out) but, in either case, remains entitled to a guaranteed minimum pension, no benefit will be payable on the member's death, except for a widow's or widower's pension of the amount described in paragraph (3) or (4) as the case may be.

#### *Late retirement*

**44.** If a member's pension is postponed for more than 7 weeks after State 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 the scheme before State 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<sup>(a)</sup> (revaluation of earnings factors) to come into force before the tax year in which the member reaches state 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 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 the scheme*

**46.**—(1) Where a guaranteed minimum pension has been transferred to the scheme and the member subsequently leaves contracted-out employment under the scheme, the guaranteed minimum pension transferred to the scheme will be increased for each complete tax year after the date on which the member left contracted-out employment under the scheme in which the transferred guaranteed minimum pension accrued, until the member reaches State pension age or dies (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 State pension age or dies (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 State pension age or dies (if earlier).

*Protected rights transferred to the scheme*

**47.**—(1) Where protected rights have been transferred to the scheme from another occupational pension scheme or a personal pension scheme, the protected rights will be used to provide guaranteed minimum pensions equal

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(a) 1992 c. 8

to those to which the member and the member's spouse 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 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 or widower, is entitled to a pension under 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 the scheme to the member, widow or widower, 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 the scheme in respect of the member's rights under a personal pension scheme.

(2) The pension under this regulation will be calculated as described in regulation 12 (Normal retirement pension) and the retirement lump sum will be calculated as described in regulation 17.

(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; or
- (c) some other pension becomes payable to the member under any of the regulations 12 to 16.

(4) If the member is in HPSS employment (whether with the same or another employing authority) when he reaches age 60 the pension will not

become payable until the member leaves HPSS employment or reaches age 70, whichever is the earlier.

(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.

(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).

#### *Refund of contributions*

**50.**—(1) A member who leaves superannuable employment without becoming entitled to a pension under regulations 12 to 16 or a preserved pension under regulation 49 shall be entitled to receive a refund of his contributions, less tax at 20 per cent or such other rate as applies from time to time.

(2) A member who wishes to take a refund of contributions must apply in writing to the Department.

(3) If the member's employment was contracted-out by reference to the scheme, the member (and the member's spouse, if any) will remain entitled to a guaranteed minimum pension under the scheme, unless the Department discharges its liability to provide a guaranteed minimum pension by paying a contributions equivalent premium under section 51(2) of the Pension Schemes (Northern Ireland) Act 1993.

(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 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 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 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, to treat the member's superannuable service before and after the break, and all such other breaks (if any), as continuous treated as continuous; and
- (b) if the member becomes entitled to receive a pension under regulation 13 (Early retirement pension (ill-health)), 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 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.

(8) If a member's superannuable service before and after a break in superannuable employment is treated separately, the member's benefits in respect of each period of superannuable employment will be calculated separately, by reference to the member's superannuable service and final year's superannuable pay in respect of that period.

## 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 before reaching age 60 may require the Department to transfer or buy-out his rights under the scheme as described in this regulation.

(2) Subject to paragraphs (3) and (4), the member may require the Department to use the cash equivalent of his rights under the scheme—

- (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 another occupational pension scheme, or under a personal pension scheme, that satisfies the requirements of Chapter

IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993(a)  
(transfer values); or

(c) in any combination of the ways described in sub-paragraphs (a) and (b),

provided that the right is exercised in relation to each and every portion of the cash equivalent.

(3) A member may require the Department to use the cash equivalent of his rights under 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) where those rights are to be transferred to a personal pension scheme, in relation to a period of service of 2 years or more falling before 6th April 1988, if a period of not less than one month has elapsed between the date the member left HPSS employment and the date of commencement of any further HPSS employment.

(4) A member who leaves superannuable employment with a preserved pension after reaching age 59 may require the Department to use the cash equivalent only to acquire rights under another occupational pension scheme.

(5) Where a member leaves superannuable employment by opting-out and on so doing becomes entitled to a preserved pension under regulation 49, then, if the member 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 his benefits that is attributable to service after 5th April 1988 and the member will acquire a right to the cash equivalent of the remaining benefits only if he actually leaves HPSS employment before reaching the age of 60.

(6) A member loses the right referred to in paragraph (1) if any pension under the scheme becomes payable to the member before the member reaches age 60.

(7) Where the Department has done what is needed to carry out what the member requires under this regulation, the Department will be discharged from any obligation to provide benefits for or in respect of the member under the scheme, except that the Department will continue to be liable to provide a guaranteed minimum pension in respect of the member where regulation 54(2) applies (unless the Department discharges that liability under regulation 48 (State scheme premiums)).

*Exercising a right to transfer or buy-out*

**54.**—(1) A member shall exercise the right to require a transfer or buy-out by making application in writing to the Department.

(2) A member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme may exercise the right at any time before reaching age 60.

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(a) 1993 c. 49 (N.I.)

(3) Subject to paragraph (4), a member who requires all or part of the cash equivalent to be used to purchase one or more buy-out policies or to acquire rights under a personal pension scheme may exercise the right at any time before reaching age 59.

(4) A member who leaves superannuable employment less than 6 months before his 59th birthday may exercise the right at any time up to 6 months after leaving.

(5) Subject to paragraph (6), a member may withdraw an application to transfer or buy-out his rights by giving notice in writing to the Department that he no longer wishes to exercise that right.

(6) The member may not withdraw the application after the Department, in order to comply with what the member previously required, has entered into an agreement with a third party to use the member's cash equivalent in a way specified in regulation 53(2).

(7) A member who withdraws an application may make another.

#### *Amount of member's cash equivalent*

**55.**—(1) Subject to paragraphs (2) and (3), the member's cash equivalent will be equal to the capitalised value of all the member's accrued rights to benefits under the scheme and any associated rights under Part I of the Pensions (Increase) Act (Northern Ireland) 1971(a), calculated and verified as required by Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993 (transfer values).

(2) If the member requires the cash equivalent to be used to acquire rights under an occupational pension scheme which is not a contracted-out scheme within the meaning of Chapter I of Part III of the Pension Schemes Act (Northern Ireland) 1993, or under a personal pension scheme which is not an appropriate scheme within the meaning of that Chapter, and the trustees or managers of the receiving scheme are unable or unwilling to accept liability for the member's rights to guaranteed minimum pensions, the cash equivalent will be reduced by an amount sufficient for the Department to meet its liability to provide guaranteed minimum pensions in respect of the member.

(3) If the cash equivalent is not to be used to acquire rights in a scheme that participates in the Public Sector Transfer Arrangements and the Department fails, without reasonable excuse, to do what is needed to carry out what the member requires within 6 months of the member's leaving superannuable employment of, if later, exercising the right, the member's cash equivalent will be increased in accordance with paragraph 4.

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(a) 1971 c. 35 (N.I.). Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)); Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15) and Article 2 of the Pension Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act. Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3)

(4) The amount of the increase under paragraph (3) will be equal to the greater of—

- (a) interest on the cash equivalent at the same rate as that which is for the time being in force in relation to interest on amounts awarded by decree in the County Court, calculated on a daily basis over the period between the date of the member's leaving superannuable employment or, if later, exercising the right to transfer or buy-out and the date on which the Department carries out what the member requires; and
- (b) the amount (if any) by which the cash equivalent is less than what it would have been if the date of the member's leaving superannuable employment or, if later, exercising the right, had been the date on which the Department carries out what the member requires.

(5) Subject to paragraph (7), 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) (Member's right to transfer accrued rights to benefits to the scheme), plus the amount of the member's contributions to the scheme.

(6) Subject to paragraph (7), 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.

(7) Paragraphs (5) and (6) do not apply where the member requires the cash equivalent to be used to acquire rights under another occupational pension scheme that participates in the Public Sector Transfer Arrangements.

(8) In any case where the Department has directed, under regulation 93 (Loss of rights to benefit), 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 that part of those benefits.

*Time limit for doing what member requires*

**56.**—(1) Subject to paragraphs (2) and (3), the Department shall do what is needed to carry out what the member requires under regulation 53 within 12 months after receiving the member's application.

(2) If the member leaves superannuable employment within 6 months before reaching age 59 and the Department receives the member's application after the member reaches age 59 but within 6 months after the member's leaving, the Department shall do what is needed to carry out what the member requires under regulation 53 (Member's right to transfer or buy-out) by the date on which the member reaches age 60.

(3) If disciplinary or court proceedings are commenced against the member within 12 months after the member leaves superannuable employment and it appears to the Department that the proceedings may lead to all or part of the member's benefits being forfeited under regulation 93 (Loss of rights to benefits), the Department may defer doing what is needed to carry out what the member requires until the date 3 months after the conclusion of those proceedings (including any proceedings on appeal where

that date is later than the date which would otherwise apply under paragraph (1) or (2) above.

*Early leaver without pension or preserved pension*

**57.**—(1) Subject to paragraphs (2) and (3), this regulation applies where a member 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.

(2) In a case where a member has received a refund of contributions under regulation 50, this regulation applies only if, before exercising the right to transfer or buy-out, the member pays to the Department an amount equal to that refund of contributions (including any interest).

(3) In a case where a member leaves superannuable employment with a pension under regulation 14 (Early retirement pension (redundancy etc)), this regulation applies only if, before exercising the right to transfer or buy-out, the member pays to the Department an amount equal to the total benefits already paid to the member under the scheme.

(4) Where this regulation applies the member will be treated, for the purposes of regulations 53 to 56, as if he had 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 or under a personal 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.

(5) A member who pays an amount to the Department as described in paragraphs (2) or (3) of this regulation will be treated, for the purposes of regulation 53(6), as if the refund of contributions or, as the case may be, the benefits represented by that amount had never become payable to the member.

*Transfers in respect of more than one member*

**58.**—(1) If two or more members leave superannuable employment, join another occupational pension scheme and exercise a right to transfer to that scheme under regulation 53 (Member's right to transfer or buy-out), the Department may, after taking advice from the Government Actuary, make a single transfer payment to that scheme in respect of those members.

(2) The Department will calculate the amount of any transfer payment under this regulation after taking advice from the Government Actuary.

*Waiver of transfer payment*

**59.** If an occupational pension scheme waives payment of any cash equivalent or transfer payment that would otherwise be payable to it under regulations 53 to 58, the payment will nevertheless be treated as made for the purposes of these Regulations.

TRANSFERS FROM OTHER PENSION ARRANGEMENTS

*Member's right to transfer accrued rights to benefits to the scheme*

**60.**—(1) Within 12 months after joining 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 scheme that is approved by the Commissioners of Inland Revenue 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 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.

<i>Member's age</i>	<i>appropriate factor</i>
29 or under	8
30 - 39	9
40 - 49	10
50 or over	12

(3) The Department shall not accept the transfer payment if—

- (a) the member joins 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 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.

(4) If the Department accepts the transfer payment, the member will be credited with an additional period of superannuable service as described in whichever of regulations 61 (Transfers made under the Public Sector Transfer Arrangements) and 62 (Transfers that are not made under the Public Sector Transfer Arrangements) 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 marital 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 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 more than one member*

**63.**—(1) The Department may, after taking advice from the Government Actuary, accept a single transfer payment from another occupational pension scheme, in respect of two or more members, if each of those members consent.

(2) Where the Department accepts a single transfer payment in respect of two or more members, each such member shall be credited with an additional period of superannuable service, calculated by the Department on the advice of the Government Actuary.

*Waiver of transfer payments*

**64.**—(1) The Department may waive payment of any transfer payment.

(2) If the Department waives payment of any transfer payment, regulations 60 to 61 will apply as if the transfer payment had been accepted.

PART VII

MEMBERS ABSENT FROM WORK

*Absence because of illness or injury or maternity leave*

**65.**—(1) This regulation applies to members who are absent from work because of illness or injury or who are on maternity leave.

(2) A period of absence to which this regulation applies will count as superannuable service for so long as the member contributes to 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 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) in the case of a woman on maternity 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.

(5) If a member fails to pay any contributions which are required to be paid to 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.

*Other leave of absence*

**66.**—(1) This regulation applies to members who are on leave of absence from work for reasons other than those referred to in regulation 65.

(2) A period of absence to which this regulation applies will count as superannuable service for so long as the member contributes to the scheme.

(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 un-reduced retirement lump sum), 70 (Paying for additional service by single payment) and 72 (Paying for additional service or un-reduced retirement lump sum by regular additional contributions), a member in superannuable employment may increase his rights to benefits under the scheme by buying additional service.

(2) The member may choose to pay for additional service by making a single payment in accordance with regulation 70 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 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 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 (Early retirement pension (ill-health)); 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.

(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. A member who could not complete at least 9 years superannuable service prior to reaching age 60 may not buy any additional service.

<i>Potential years of superannuable service</i>	<i>Maximum period of additional service that member may buy</i>
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

(7) 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 the 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 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.

*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 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) Subject to paragraph (2), a member who wishes to pay for additional service by a single payment must elect to do so within 12 months of first joining the scheme.

(2) A member who, following a break in superannuable employment, rejoins the scheme, may pay for additional service by a single payment if—

- (a) he again becomes a member having become entitled, in respect of earlier superannuable service, to a pension under regulation 49 (Preserved pension) which has not become payable,
- (b) he again becomes a member having, in respect of earlier superannuable service, received a refund of contributions which has not been repaid, or
- (c) he again becomes a member having, in respect of earlier superannuable service, required a transfer of rights to another scheme

in circumstances where those other rights are preserved in that other scheme,

and he elects to do so within 12 months of rejoining the scheme.

(3) The amount of a single payment for additional service will be 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) 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 under paragraph (3).

*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 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).

(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) 1971(a) at 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 the scheme, 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 Inland Revenue.

(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.

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(a) 1971 c. 35 (N.I.). Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)) Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15)) which have effect as if they were contained in Part V of that Act, Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3)

*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 (Early retirement pension (ill-health)) 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)) 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—

$$\frac{\text{period for which contributions were paid}}{\text{period for which contributions should have been paid}}$$

(6) If the member entitled to receive benefits before the chosen date under regulation 72(3), the benefits will be calculated as described in paragraph (5) but (except in a case where a reduction for early payment falls to be made under regulation 16(2) or 17(7)(b)) will then be reduced on a basis determined by the Government Actuary and consistent with the preservation requirements.

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.

*Nurses, physiotherapists, midwives and health visitors*

**75.**—(1) Subject to paragraph (2), this regulation applies to a member—

(a) who, at the coming into operation of these Regulations—

- (i) is in superannuable employment as a nurse, physiotherapist, midwife or health visitor, or
- (ii) has accrued rights to benefits under 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 anyone 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;

(b) if the member leaves superannuable employment because of redundancy, but without becoming entitled to a pension under regulation 14 (Early retirement (redundancy etc), 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 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 subparagraph (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 the scheme as a mental health officer; or
- (b) has accrued rights to benefits under 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 (Early retirement pension (ill-health)) and regulations 34, 35 and 36 (child allowance), the superannuable 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 or widower'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)), 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.

$$\frac{\text{basic service}}{\text{potential basic service}} \times \text{potential service}$$

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 with more than one employing authority and members who hold, under one employing authority, two or more separate employments.

(2) A member may contribute to the 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 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 70.

(6) If a member leaves employment with one employing authority and becomes entitled to a pension under regulation 14 (Early retirement pension (redundancy etc)) 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) 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).

(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 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 at 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—

$$\frac{\text{member's superannuable pay}}{\text{comparable whole-time earnings}}$$

(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—

$$\frac{\text{member's hours of employment each week}}{\text{hours constituting comparable whole-time employment}}$$

(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.

(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 (Early retirement pension (ill-health))—

- (a) the member's superannuable service in part-time employment will count at its full length for the purpose of calculating whether, and (if so) to what extent, the superannuable service upon which the pension is based should be increased under regulation 13;
- (b) the pension will be based on the whole-time equivalent of the period of part-time employment and the increase under regulation 13 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—

$$\frac{\text{part-time superannuable employment}}{\text{comparable whole-time superannuable employment}}$$

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 an 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 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 pay 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 the regulations made under Article 12 of the Superannuation (Northern Ireland) Order 1972(a), or
- (b) a superannuation scheme provided under regulations for the time being in force under section 10 of the Superannuation Act 1972(b) and for the time being in force in relation to England and Wales and Scotland or scheme made under section 2 of the National Health Service (Isle of Man) Act 1984 (an Act of Tynwald), or
- (c) 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 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 attaching to that service) under the scheme calculated as if —

- (a) the employment to which the health service scheme applied were HPSS employment, and
- (b) the member's contributions to the health service scheme were contributions to the scheme.

(3) The member may exercise this right only if a transfer payment is made from the health service scheme to 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 the scheme.

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(a) S.I. 1972/1073 (N.I. 10) as amended by S.I. 1990/1509 (N.I. 13)  
(b) 1972 c. 11

(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 scheme.

*Members whose earnings are reduced*

**82.**—(1) A member with at least 2 years' qualifying service who suffers a reduction in earnings in the circumstances described in paragraph (2) may opt to take a preserved pension under regulation 49 in respect of his superannuable service before his earnings were reduced.

(2) A member acquires the right described in this regulation if the reduction is due to—

- (a) the member being transferred to other employment with an employing authority.
- (b) the member choosing to transfer to 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.

(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) A member wishing to exercise the option described in this regulation must make application in writing to the Department within 3 months after his earnings are reduced.

(5) If a member continues to contribute to the scheme after exercising the option described in this regulation, 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)), 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 (Early retirement pension (ill-health)) and the member's superannuable service falls to be increased as described in paragraphs (4) to (6) of that regulation, 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.

#### *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.

### 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(4), 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 his employer, and any other person that the Department may specify, that his pension under the scheme has become payable.

(3) Where this regulation applies the pension referred to in paragraph (1) shall, subject to paragraph (3), cease to be payable.

(4) The pension referred to in paragraph (1) shall again become payable if the member ceases to be in any HPSS employment (or reduces the number of hours worked to 16 per week or less) for a period of one month or reaches age 70, whichever occurs first.

(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 to which a scheme made under section 2 of the National Health Service (Isle of Man) 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) This regulation applies, until he reaches age 60, to a member in respect of whom a pension is payable under any of regulations 12 to 16 or 49, who continues in, or subsequently returns to HPSS employment.

(2) A member to whom this regulation applies must inform his employer, and any other person that the Department may specify, that his pension under the scheme has become payable.

(3) Where this regulation applies, the member's pension will be reduced to the extent necessary to ensure that the member's pension plus pay from HPSS employment for any financial year after the pension becomes payable does not exceed the member's previous pay.

(4) A member's pension will be reduced as described in this regulation whether or not the member is included in the scheme 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 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) 1971<sup>(a)</sup> at 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) in respect of any part of a financial year, the amount of the member's "previous pay" will be reduced proportionately.

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(a) 1971 c. 35 (N.I.). Part I of the Act has been amended by Article 23(1) of, and paragraphs 8 to 10 of Schedule 6 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)) Articles 5(2) and (3) of the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)); Article 74(2) of, and Schedule 6 to the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)) and Article 2 of the Pensions Increase (Reduction of Qualifying Age) Order 1972 (S.R. & O. (N.I.) 1972 No. 264). See also Articles 69 and 69A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503) (N.I. 15) which have effect as if they were contained in Part V of that Act, Article 69A was inserted by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) Article 10(3)

(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—

"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 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 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—

- (a) 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.

*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 on death in superannuable employment after pension 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
- (b) dies in superannuable employment.

(2) In this regulation, “previous service” and “later service” have the same meaning as in regulation 86(2).

(3) Where this regulation applies, the lump sum payable on the member’s death 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 become entitled to a pension, based on his later service, under regulation 12 (Normal retirement pension) on the date of his death.

(4) Subject to paragraph (5), if a member to whom this regulation applies leaves a surviving spouse, the spouse's pension for the first 3 months after the member's death (6 months if the member leaves a dependent child who is dependent on the spouse) 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 was payable at that time.

(5) Paragraph (4) shall not apply if the aggregate of the spouse's pension and any child allowance which would otherwise be payable under these Regulations is greater.

(6) Except while the pension is payable at the rate mentioned in paragraph (4), any spouse's pension shall be equal to one-half of the rate of pension mentioned in paragraph (3) that would have been payable to the member and shall be paid in addition to any widow's (and where appropriate, widower's) pension payable under regulation 25 (Member dies after pension becomes payable) in respect of the member's previous superannuable service.

(7) If a member to whom this regulation applies leaves a dependent child but no surviving spouse, the child allowance, for the first 6 months after 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 he was receiving at that time.

(8) Subject to paragraph (9), except where a spouse's pension or a child allowance is payable at the rate mentioned in paragraph (4) or (7) respectively, the child allowance shall be paid as a proportion of the rate of pension described in paragraph (3). That proportion shall be determined in accordance with the circumstances as described in regulation 34 (Member dies in superannuable employment).

(9) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member terminated his previous service and when he died, any child allowance payable under these Regulations shall be calculated according to regulation 35 (Member dies after pension becomes payable) in respect of the pension already in payment and regulation 34 (Member dies in superannuable employment) in respect of later superannuable employment. If the aggregate of superannuable service in both calculations is less than 10 years, additional service will be allocated to the later superannuable employment to bring the aggregate up to the shorter of:

- (a) 10 years superannuable service; or
- (b) the superannuable service the member could have completed if he had stayed in the later superannuable employment until age 65.

## PART XI

### GENERAL RULES ABOUT BENEFITS

#### *Claims for benefits*

**88.** A person claiming to be entitled to benefits under these Regulations shall make a claim in writing to the Department and shall provide such evidence of entitlement as the Department may require.

*Deduction of tax*

**89.** The Department shall deduct from any payment under the scheme any tax for which he may be liable in respect of it.

*Benefits not assignable*

**90.**—(1) Any assignment of, or charge on, or any agreement to assign or charge, any right to a benefit under the scheme is void.

(2) On the bankruptcy of any person entitled to a benefit under 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 the scheme, the court makes an income payments order under Article 283 of the Insolvency (Northern Ireland) Order 1989(a) (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.

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(a) S.I. 1989/2405 (N.I. 19)

*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 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(a) 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.

(2) A guaranteed minimum pension may be forfeited only if (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 Government Actuary.

(3) A pension may be treated as trivial only if all benefits payable to the person concerned under the scheme are less in value than a pension of £260 a year or any greater amount consistent with the contracting-out and preservation requirements.

(4) A member's pension that includes a guaranteed minimum pension cannot be treated as trivial until the member reaches State pension age.

(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.

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(a) 1911 c. 28; 1920 c. 75; 1939 c. 121; 1989 c. 6

*Accounts and actuarial reports*

**97.**—(1) The Department shall keep accounts of the scheme in a form approved by the Department of Finance and Personnel.

(2) The accounts shall be open to examination by the Comptroller and Auditor General.

(3) Unless the Department of Finance and Personnel otherwise determines, the Government Actuary shall prepare an actuarial report of the scheme at the 31st March 1999 and at the expiration of every period of 5 years after that date.

(4) The Government Actuary shall send copies of each actuarial report of the scheme to the Department and the Department of Finance and Personnel.

(5) Employing authorities shall keep records of all contributions deducted from salaries and wages in a manner approved by the Department and, except where the Department waives such a requirement, provide a statement in respect of such matters to the Department within 2 months of the end of each financial year.

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 previous regulations applied in relation to a member, namely—

- (a) regulation 9 (additional benefits for certain transferred officers);
- (b) regulations 27 to 30 (continuation of previous arrangements in respect of additional contributory payments);
- (c) regulation 32(7) (part-time service before 15th December 1966 in respect of certain practitioners);
- (d) regulations 37 to 39 (benefits in the case of certain re-employed pensioners);
- (e) regulations 40 to 47 (optants and certain other arrangements);
- (f) regulations 51 and 52 (modification of benefits and obligations in connection with the National Insurance Acts (Northern Ireland) 1946 and 1966);
- (g) regulation 71 (part-time specialists with service before 1 st April 1967);
- (h) regulation 72 (continuation of contracts or policies of insurance in certain cases); and
- (i) 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 Personnel on 15th March 1995.

(L.S.) *J. McKeown*  
Assistant Secretary

**Purchase of additional service and unreduced retirement lump sum**

TABLE 1

(Regulation 70(3))

**Paying for additional service by a single payment**

<i>Member's age when employing authority receives notice of election</i>	<i>Cost per £100 of remuneration for each year of additional service</i>
(1)	(2)
	£
20	25.20
21	24.70
22	24.20
23	23.70
24	23.20
25	22.70
26	22.20
27	21.80
28	21.40
29	21.10
30	20.90
31	20.70
32	20.50
33	20.30
34	20.10
35	20.00
36	20.00
37	20.00
38	20.00
39	20.00
40	20.00
41	20.00
42	20.00
43	20.00
44	20.00
45	20.10
46	20.30
47	20.50
48	20.70
49	20.90
50	21.00
51	21.00
52	21.00
53	21.00
54	21.00
55	21.10
56	21.30
57	21.60

<i>Member's age when employing authority receives notice of election</i>	<i>Cost per £100 of remuneration for each year of additional service</i>
(1)	(2)
58	21.90
59	21.90
60	21.70
61	21.50
62	21.30
63	21.10
64	21.00
65	21.80
66	21.30
67	19.70
68	19.10
69	18.50

TABLE 2 (Regulation 71(3))

**Paying for unreduced retirement lump sum by a single payment**

<i>Member's age when employing authority receives notice of election</i>	<i>Cost per £100 of remuneration for each year of service in respect of which unreduced retirement lump sum is bought</i>
(1)	(2)
	£
20 & under	2.97
21	2.91
22	2.85
23	2.79
24	2.73
25	2.67
26	2.61
27	2.56
28	2.51
29	2.48
30	2.46
31	2.44
32	2.41
33	2.39
34	2.36
35	2.35
36	2.35
37	2.35
38	2.35
39	2.35
40	2.35
41	2.35

<i>Member's age when employing authority receives notice of election</i>	<i>Cost per £100 of remuneration for each year of service in respect of which unreduced retirement lump sum is bought</i>
(1)	(2)
42	2.35
43	2.35
44	2.35
45	2.36
46	2.38
47	2.41
48	2.44
49	2.46
50	2.47
51	2.47
52	2.47
53	2.47
54	2.47
55	2.48
56	2.50
57	2.50
58	2.50
59	2.50
60	2.50
61	2.50
62	2.50
63	2.50
64	2.50
65	2.50
66	2.50
67	2.50
68	2.50
69	2.50

TABLE 3

(Regulation 72(5))

**Paying for additional service by regular additional contributions**

<i>Member's age at next birthday after employing authority receives notice of election</i>	<i>Percentage of superannuable pay for each complete year of additional service</i>		
	<i>Birthday to which member has elected to pay contributions</i>		
(1)	(2)		
	55	60	65
20	.61	.50	.36
21	.64	.52	.38
22	.67	.54	.40
23	.70	.56	.42
24	.74	.58	.44
25	.78	.60	.46
26	.82	.62	.48
27	.86	.64	.50
28	.90	.66	.52
29	.94	.68	.54
30	.98	.70	.56
31	1.02	.72	.58
32	1.07	.75	.60
33	1.12	.78	.62
34	1.17	.81	.64
35	1.22	.85	.67
36	1.28	.89	.69
37	1.35	.93	.72
38	1.43	.98	.74
39	1.51	1.03	.77
40	1.60	1.09	.80
41	1.70	1.15	.83
42	1.83	1.22	.87
43	2.00	1.30	.91
44	2.20	1.39	.95
45	2.42	1.48	1.00
46	2.69	1.58	1.06
47	3.02	1.70	1.13
48	3.45	1.85	1.21
49	4.02	2.03	1.29
50	4.80	2.25	1.38
51	6.04	2.53	1.48
52	8.05	2.86	1.60
53	12.18	3.26	1.74
54		3.80	1.90
55		4.58	2.08
56		5.77	2.30
57		7.77	2.56
58		12.06	2.92
59			3.40
60			4.10
61			5.20
62			6.97
63			10.42

TABLE 4

(Regulation 72(5))

**Paying for unreduced retirement lump sum by regular additional contributions**

<i>Member's age at next birthday after employing authority receives notice of election</i>	<i>Percentage of superannuable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought</i>		
	<i>Birthday to which member has elected to pay contributions</i>		
	55	60	65
20 & under	.07	.06	.04
21	.07	.06	.04
22	.08	.06	.05
23	.08	.07	.05
24	.09	.07	.05
25	.09	.07	.05
26	.10	.07	.06
27	.10	.08	.06
28	.11	.08	.06
29	.11	.08	.06
30	.12	.08	.07
31	.12	.08	.07
32	.13	.09	.07
33	.13	.09	.07
34	.14	.10	.08
35	.14	.10	.08
36	.15	.11	.08
37	.16	.11	.08
38	.17	.12	.09
39	.18	.12	.09
40	.19	.13	.09
41	.20	.13	.10
42	.22	.14	.10
43	.24	.15	.11
44	.26	.16	.11
45	.29	.17	.12
46	.32	.19	.12
47	.36	.20	.13
48	.41	.22	.14
49	.47	.24	.15
50	.56	.27	.16
51	.71	.30	.17
52	.95	.34	.19
53	1.43	.38	.20
54		.45	.22
55		.54	.24
56		.68	.27
57		.91	.30
58		1.42	.34

<i>Member's age at next birthday after employing authority receives notice of election</i>	<i>Percentage of superannuable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought</i>		
(1)	(2)		
	Birthday to which member has elected to pay contributions		
	55	60	65
59			.40
60			.48
61			.61
62			.82
63			1.23

**Medical and dental practitioners***Additional definitions used in this Schedule*

1. In this Schedule—

“assistant practitioner” means a practitioner, 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 practitioner, and for whose employment the consent of the relevant Health and Social Services Board and the Agency is required;

“associate general practitioner” means a medical practitioner who is employed by a principal practitioner to provide general medical services in circumstance where the principal practitioner is entitled to claim an allowance under regulation 32(t) of the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973(a) (remuneration of doctors);

“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 practitioner on the medical or dental list;

“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, and references to an employing authority shall, in relation to a practitioner be taken as a reference to the Agency.

(2) Notwithstanding any other provision of these Regulations, a practitioner who wishes to contribute to the scheme must do so in respect of all of his work as a practitioner.

*Meaning of “superannuable” earnings*

3.—(1) In the case of a practitioner other than an assistant practitioner or an associate general practitioner, “superannuable earnings” means practitioner income less—

- (a) any sum on account of practice expenses that may be appropriate in accordance with a formula laid down by the Department for the purpose; and
- (b) 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,—

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(a) S.R. & O. 1973 No. 421; the relevant amending Regulations are S.R. 1989 No. 454

- (a) all payments made by an employing authority to a principal practitioner in respect of general medical services, general dental services, general ophthalmic services or pharmaceutical services provided by the practitioner, including any payments so made to the practitioner as a trainer in general practice;
- (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(a) (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.

(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.

*Calculating “superannuable earnings” of practitioners in partnership*

4.—(1) In the case of practitioners practising in partnership, the superannuable earnings of each principal practitioner 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 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 do not share equally in the partnership profits, they may elect that each practitioner’s superannuable earnings shall correspond to each practitioner’s share of the partnership profits.

(3) Where a medical practitioner practising in partnership also has earnings in respect of HPSS employment otherwise than as a practitioner, the practitioners may elect that the superannuable earnings of that practitioner, as determined in accordance with sub-paragraph (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 shares in the partnership profits.

(4) The calculation described in sub-paragraphs (2) and (3) will be made by the employing authority to which the practitioners are required to give notice of their election in accordance with paragraph (5).

*Elections relating to the calculation of ‘superannuable earnings’ in partnerships*

5.—(1) Practitioners must exercise the election described in sub-paragraphs 4(2) and (3) by giving notice in writing.

(2) Dental practitioners must give such notice to the employing authority by which they wish the necessary action to be taken.

(3) In the case of medical practitioners, if all the practitioners in the partnership are on the list of a single employing authority, they must give notice to that authority. Otherwise they must give notice to the Authority that is responsible, under the Health and Personal Social Services (General Medical and Pharmaceutical Services)

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(a) S.I. 1972/1265 (N.I. 14) — relevant amending instruments are S.I. 1986/2229 (N.I. 24), S.I. 1988/594 (N.I. 2) 1988/2249 (N.I. 24) and S.I. 1991/194 (N.I. 1)

Regulations (Northern Ireland) 1973, for assembling information about the total number of persons on the list of the practitioner or practitioners concerned.

(4) The notice must be signed by all the principal practitioners in the partnership and must state as a fraction each practitioner'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 quarter, stating the superannuable pay received, in that quarter, 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. In the case of an assistant practitioner or an associate general practitioner, superannuable earnings means all salary, wages, fees and other regular payments paid to a practitioner in respect of employment as a practitioner, but does not include bonuses or payments made to cover expenses or for overtime.

*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(a) 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.

<i>Period</i>	<i>Upper limit for each year</i>
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

(a) S.R. & O. (N.I.) 1973 No. 416 as amended by S.R. 1989 No. 198, S.R. 1990 Nos. 342 and 381, and S.R. 1992 No. 37

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

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(2) A dental practitioner's superannuable earnings in any financial year starting after the 31st March 1995 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 principal practitioner, the member's officer service before first becoming a principal 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 will be disregarded and the member's uprated earnings will be increased by the same proportion as the member's practitioner service is increased by virtue of the officer service being treated as practitioner service under sub-paragraph (1).

(3) Sub-paragraph (1) does not apply where—

- (a) the member first became a principal 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
- (b) 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 principal practitioner were treated as practitioner service).

(4) The calculation described in sub-paragraph (3)(b) will be made when the member's pension under 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 (Early retirement pension (ill-health)), and any additional service bought as described in regulation 67 (Right to buy additional service), will be ignored.

(6) Subject to sub-paragraph (8), if a member has, in total, less than one year's officer service on the last occasion on which he ceases to be a practitioner before his pension under the scheme becomes payable, that officer service will be treated as 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), the member's superannuable pay in respect of that officer service will be treated as superannuable earnings.

(8) If the member has been a principal practitioner, sub-paragraph (1) will be applied before sub-paragraph (6) and

(a) sub-paragraph (6) will not apply to any officer service that is treated as practitioner service under sub-paragraph (1); 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) 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) 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 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.

#### *Contribution to the scheme*

10.—(1) In the case of members who are practitioners, regulation 10 (Contributions by members) is modified as described in sub-paragraphs (2) to (5).

(2) The contribution rate for practitioners is 6 per cent of superannuable earnings.

(3) Contribution must be paid until the member reaches age 70 or completes 45 years' superannuable service and reaches age 65.

(4) Principal practitioners and dental practitioners must pay their contribution to the appropriate employing authority.

(5) Contributions payable by an assistant practitioner or associate general practitioner will be deducted from the practitioner's earnings, and paid, as the case may be, to the appropriate employing authority, by the employing practitioner.

(6) Regulation 11 (Contributions by employing authorities) is modified so that contributions in respect of practitioners are payable under that regulation by the appropriate employing authority.

#### *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) The member's uprated earnings are to be calculated by uprating the member's superannuable earnings in the manner determined by the Department after consulting such professional organisations as he considers appropriate.

*Early retirement pension (ill-health)*

12.—(1) In the case of members who are or have been practitioners, regulation 13 (Early retirement (ill-health)) is 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 that regulation—

- (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).

*Early retirement pension (employer's consent)*

13. A practitioner may not become entitled to a pension under regulation 15 (Early retirement pension (employer's consent)) as a result of the termination of superannuable employment as a practitioner.

*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 the yearly average of the member's uprated earnings at the date of death.

(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 at the date of death.

*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.

*Child allowance member dies in superannuable employment*

17. In the case of members who die in superannuable employment as practitioners, regulation 34 (Member dies in superannuable employment) is modified so that the references, in regulation 34(6) and (7), 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.

*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 the scheme) and 63 (Transfers in respect 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 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 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) 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) 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.

*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 for 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—

$$\text{relevant earnings} \times \text{additional service bought}$$

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.

(5) The amount of the increase referred to in sub-paragraph (4) will be calculated using the formula—

$$\text{relevant uprated earnings} \times \text{additional service bought}$$

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 contribution, the contribution 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 the scheme in respect of his employment as a practitioner may, nevertheless, participate in the scheme in respect of concurrent employment as an officer.

(3) Regulation 77(2) is modified so that a practitioner may participate in the scheme in respect of concurrent whole-time or part-time employment as an officer, even if he also participates in 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 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 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 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 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).

**Revocations**

Column 1 <i>Regulations</i>	Column 2 <i>Extent of Revocation</i>
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 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—

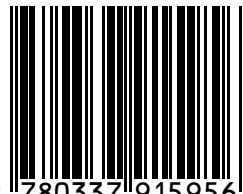
- (a) provision is made for the payment of a voluntary early retirement pension where the employing authority agrees to meet the cost, for all members except medical and dental practitioners. Benefits will not be reduced or enhanced (regulation 15);
- (b) provision is made for the payment of a voluntary 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).

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