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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 104**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Health and Personal Social Services (Superannuation Scheme and Additional Voluntary Contributions) (Pension Sharing) (Amendment) Regulations (Northern Ireland) 2004**

*Made* - - - -

*11th March 2004*

*Coming into operation*

*11th May 2004*

The Department of Health, Social Services and Public Safety<sup>(1)</sup> in exercise of the powers conferred on it by Articles 12(1), (2), (2A) and (3) and 14(1), (2), (3) and (3A) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972<sup>(2)</sup>, and Article 39 of the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(3)</sup> and of all other powers enabling it in that behalf, after consulting with such representatives of persons likely to be affected by these Regulations as appear to it to be appropriate as required by Article 12(4) of that Order, and with the consent of the Department of Finance and Personnel, hereby makes the following Regulations:

**Citation, commencement and retrospective effect**

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Superannuation Scheme and Additional Voluntary Contributions) (Pension Sharing) (Amendment) Regulations (Northern Ireland) 2004.

(2) These Regulations shall come into operation on 11th May 2004 and shall have effect from 1st May 2001.

**Interpretation**

2. In these Regulations –

“The AVC Regulations” means the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999<sup>(4)</sup>;

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(1) See S.I. 1999/283 (N.I. 1): Article 3(6)

(2) S.I. 1972/1073 (N.I. 10), paragraph (2A) of Article 12 and paragraph (3A) of Article 14 are inserted by Articles 10(5) and 12(3) respectively of S.I. 1990/1509 (N.I. 13)

(3) S.I. 1999/3147 (N.I. 11)

(4) S.R. 1999 No. 294 as amended by S.R. 2002 No. 129

“the Superannuation Scheme Regulations” means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(5).

**Amendment of the Superannuation Scheme Regulations**

3. The Superannuation Scheme Regulations shall be amended in accordance with Schedule 1.

**Amendment of the AVC Regulations**

4. The AVC Regulations shall be amended in accordance with Schedule 2.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 11th March 2004.

*D. C. Bingham*  
Senior Officer of the  
Department of Health, Social Services and  
Public Safety

The Department of Finance and Personnel hereby consents to the foregoing regulations  
Sealed with the Official Seal of the Department of Finance and Personnel on 11th March 2004.

*Ciaran Doran*  
Senior Officer of the  
Department of Finance and Personnel

## SCHEDULE 1

Regulation 3

### AMENDMENT OF THE SUPERANNUATION SCHEME REGULATIONS

#### Amendment of Regulation 2

1. In regulation 2 (Interpretation) of the Superannuation Scheme Regulations there shall be inserted in the appropriate places in alphabetical order the following definitions –

- ““the 1993 Act” means the Pensions Schemes (Northern Ireland) Act 1993(6);
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999(7);
- “normal benefit age”, in relation to the Scheme, means the age of 60;
- “pension credit” means a credit under Article 26(1)(b) of the 1999 Order or section 29(1)(b) of the Welfare Reform and Pensions Act 1999(8);
- “pension credit benefit” has the meaning given by section 97B of the 1993 Act(9);
- “pension credit member” has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995(10);
- “pension credit rights” has the meaning given by section 97B of the 1993 Act;
- “pension sharing order or provision” means an order or provision which is mentioned in Article 25(1) of the 1999 Order;
- “safeguarded percentage” has the meaning given by section 64A(3) of the 1993 Act(11);
- “safeguarded rights” has the meaning given by section 64A(1) of the 1993 Act;
- “valuation day” means the day referred to in Article 26(7) of the 1999 Order.”.

#### Insertion of new Regulation 83B

2. After regulation 83A(12) (Participators in Pilot Schemes) there shall be inserted the following regulation –

##### “Pension Sharing on divorce or nullity of marriage

83B.—(1) Schedule 2A shall have effect in relation to –

- (a) pension credit rights; and
- (b) pension credit benefit payable,

under the scheme.

(2) Except as provided for in this regulation and in Schedule 2A, regulations 3 to 99 shall not apply to a person entitled to a pension credit or to a pension credit member.”.

#### Insertion of new Schedule

3. After Schedule 2 there shall be inserted the following Schedule –

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(6) 1993 c. 49

(7) S.I. 1999/3147 (N.I. 11)

(8) 1999 c. 30

(9) Section 97B is inserted by Article 34 of the 1999 Order

(10) S.I. 1995/3213 (N.I. 22) – Article 121(1) is amended by paragraph 50 of Schedule 9 to the 1999 Order

(11) Section 64A was inserted by Article 33 of the 1999 Order

(12) Regulation 83A was inserted by S.R. 1998 No. 299

## “SCHEDULE 2A

Regulation 83B

## PENSION SHARING ON DIVORCE OR NULLITY OF MARRIAGE

**Discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit**

1.—(1) The Department shall, following the death of the person entitled to a pension credit before liability in respect of that credit has been discharged, discharge its liability in respect of that credit by way of the payment of a lump sum in accordance with regulation 6(2)(a)(i) of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000<sup>(13)</sup> (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit).

(2) The amount of a lump sum payable under this paragraph shall be –

- (a) payable in accordance with regulation 22<sup>(14)</sup> as modified by paragraph 11; and
- (b) equal to 3 times the annual rate of the pension credit benefit to which the person entitled to the pension credit would have been entitled had he reached normal benefit age on or before the date of death.

**Safeguarded rights**

2.—(1) Sub-paragraph (a) of section 64A(2) of the 1993 Act (Safeguarded rights) applies in relation to the safeguarded rights of a pension credit member.

(2) Safeguarded rights shall be identified in the scheme as being the safeguarded percentage of the pension credit rights.

**Pension credit benefit**

3.—(1) A pension credit member shall be entitled under the scheme to pension credit benefit which shall consist of –

- (a) a pension; and
- (b) where the member, from whose rights the pension credit member's pension credit rights are derived, has not received a lump sum on or before the day on which the pension sharing order or provision takes effect, a lump sum.

(2) Subject to paragraph 4, a pension credit member shall be entitled to the payment of the pension credit benefit when he reaches normal benefit age.

(3) Payment of the pension credit benefit to which a pension credit member is entitled shall not be deferred beyond normal benefit age.

(4) A pension payable in accordance with this paragraph shall be payable to the pension credit member for life.

(5) The value of the pension referred to shall be equal to the value of the pension credit rights that have accrued to or in respect of the pension credit member.

(6) The lump sum referred to shall be equal to 3 times the annual rate of the pension.

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<sup>(13)</sup> S.R. 2000 No. 145. Regulation 6 was substituted by regulation 11(3) of S.R. 2000 No. 335

<sup>(14)</sup> Regulation 22 was amended by regulation 5 of S.R. 2002 No. 69

#### **Commutation of the whole of pension credit benefit before normal benefit age**

4.—(1) A pension credit member shall be entitled to the commutation of the whole of his pension credit before reaching normal benefit age in the circumstances described in regulation 3(2) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(15)</sup> (Commutation of the whole of pension credit benefit).

(2) The pension credit benefit payable in the circumstances described in paragraph 2(a) of regulation 3 of those Regulations shall consist of –

- (a) a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3 had the pension credit member reached normal benefit age on the date when commutation in accordance with this paragraph is applied for; and
- (b) where paragraph 3(1)(b) applies, a lump sum equal to 3 times the annual rate of the pension referred to in sub-paragraph (2)(a).

#### **Commutation of the whole of pension credit benefit at normal benefit age**

5.—(1) Where –

- (a) the pension credit member is suffering from serious ill health at normal benefit age such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension credit benefit is applied for; or
- (b) the aggregate of the total benefits payable to the pension credit member, including any pension credit benefit, does not exceed £260 per annum at normal benefit age,

the Department may discharge its liability in respect of the payment of pension credit benefit by the payment of a lump sum to the pension credit member at normal benefit age.

(2) The pension credit benefit payable in the circumstances described in sub-paragraph (1) (a) shall consist of –

- (a) a lump sum equal to 5 times the annual rate of the pension otherwise payable under paragraph 3; and
- (b) where paragraph 3(1)(b) applies, a lump sum equal to 3 times the annual rate of the pension.

#### **Pension credit member dies before pension credit benefit becomes payable**

6.—(1) If a pension credit member dies before his pension under the scheme becomes payable under paragraph 3, a lump sum on death shall be payable in accordance with regulation 22 as modified by paragraph 9.

(2) The lump sum shall be equal to 3 times the annual rate of the pension credit member's pension, to which he would have been entitled had he reached normal benefit age on or before the date of death, calculated in accordance with paragraph 3(5).

#### **Pension credit member dies after pension credit benefit becomes payable**

7.—(1) If a pension credit member dies within 5 years after his pension under the scheme became payable under paragraph 3, a lump sum on death shall be payable in accordance with regulation 22 as modified by paragraph 9.

(2) Subject to sub-paragraph (3), the lump sum on death shall be equal to 5 times the annual rate of the pension credit member's pension less the amount of pension already paid.