EXPLANATORY MEMORANDUM TO

The Health and Personal Social Services (Superannuation Scheme, Injury Benefits and Additional Voluntary Contributions), Health and Social Care (Pension Scheme) (Amendment) Regulations (Northern Ireland) 2012

S.R. 2012 No. 42

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 12(1), (2), 14(1), (2) and (3) of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.

2. Purpose

2.1. This rule amends four statutory rules relating to pensions and benefits provided for Health and Social Care staff.

2.2. The rule makes miscellaneous and minor technical amendments including a number that are mandatory and consequential upon changes made by the Finance Act 2011.

2.3. The rule also makes improvements to the governance and record keeping arrangements relating to the pensions of HSC medical and dental practitioners

3. Background

Compliance with the Finance Act 2011

3.1. From 6 April 2011, the Finance Act 2011 amended the Finance Act 2004 to remove age restrictions on the payment of lump sums in certain circumstances. Amending regulations 5(3), 6, 11, 15, 17, 25 and 27 make commensurate changes to both sections of the HSC Pension Scheme. These amendments are made with retrospective effect from 6 April 2011.

3.2. Amending regulation 32 extends the provision allowing deferred members to transfer their investment with HSC Additional Voluntary Contribution providers to any registered pension provider to active members, and increases the upper age limit for transfers from age 60 to 75.

3.3. The Finance Act 2011 also extends the coverage of the special lump sum death benefits tax charge so that it will apply to any lump sums due on the death of a member over age 75. The Act also introduces a new tax charge "the serious ill health lump sum charge" which will apply where a serious ill health lump sum is paid after a member reaches age 75. Both charges are 55% of the value of the lump sum and, where scheme rules permit, may be deducted from the payment due to the member. Amending regulations 8, 20 and 29 implement the new and extended charges in the 1995 and 2008 Section regulations. These amendments are also made with retrospective effect from 6 April 2011.

Improved governance and record keeping for Medical and Dental practitioners

3.4. Existing administrative and governance arrangements for recording the pensionable earnings of medical and dental practitioners have been improved. Amending regulations 10 and 30 simply confirm, in more detail, existing administrative arrangements.

Other Miscellaneous and minor technical changes

The 1995 Section of the HSC Pension Scheme

3.5. (1) Amending regulation 3 adjusts the wording in the definition of "host Health and Social Services Board" in regulation 2 (Interpretation) to clarify the definitions for principal medical and principal dental practitioners.

(2) Amending regulation 5(2) amends regulation 17 (Lump sum on retirement) to clarify that additional pension purchased by members does not attract a fixed lump sum payment.

(3) Amending regulation 7 amends regulation 85 (Reduction on pension on return to HSC employment) to include a missing cross reference to regulation 76(9)

(4) Amending regulation 10(3) omits paragraph (13) of Schedule 2 in order to remove an outdated reference to regulation 15 (Early retirement with employer consent)

The 2008 Section of the HSC Pension Scheme

3.6 (1) Amending regulations 13 and 21 amend regulations 10 and 141 (Meaning of "qualifying service") respectively. These amendments ensure that deferred and pensioner members of the 1995 section who are eligible to join the 2008 section on return to work in the HSC will now be able to count their earlier service in the 1995 section as qualifying service in the 2008 Section of the scheme. These amendments are made with retrospective effect from 9 February 2011.

(2) Amending regulations 14 and 23 amend regulations 27 and 160 (Contributions by members) respectively to correct a cross reference in those regulations.

(3) Amending regulations 16 and 26 amend regulations 75 and 202 (Meaning of dependant child) respectively with retrospective effect from 1 April 2008. These amendments extend the definition of "dependant child" to include children born before the member joined the scheme.

(4) Amending regulation 18 corrects an incomplete cross reference in regulation 120 (Meaning of "previous pay"; members with concurrent employments).

Amendment of both the 1995 Section and the 2008 Section of the HSC Pension Scheme

3.7 (1) Amending regulations 9, 19 and 28 extend the circumstances in which small pensions may be commuted into a lump sum payment to include those provided under regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009.

(2) Amending regulations 10(2) and 24 amend paragraphs (2I) and (2L) of Schedule 2 to the 1995 Section Regulations and regulation 161(6) and (9) of the 2008 Section Regulations so that the wording of those regulations is brought into line with 2008 Section regulation 30(6).

Amendments to the Injury Benefit Regulations

3.8 Amending regulation 31 deletes duplicate references in regulation 2 (Interpretation) to "APMS contract" and "APMS contractor".

4. Consultation

4.1. A formal consultation exercise on the amending regulations began on the 16 August 2011 and ended on the 6 October 2011.

4.2. Amongst those consulted were: HSC Trades Union representatives, HSC Employers; HSC Pension Service (the Scheme Administrators); Government Actuary's Department and HM Treasury.

4.3. No responses were received.

5. Equality Impact

5.1. The Department concluded that the new arrangements were not likely to have a significant impact on equality of opportunity for any group referred to in section 75 of the Northern Ireland Act 1998 and therefore a full EQIA was not recommended.

6. Regulatory Impact

6.1. A regulatory impact assessment has not been produced for this rule as it has no impact on the costs of business, charities or the voluntary sector.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. Legal advice confirms that the provisions of this rule comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not appropriate

10. Parity or Replicatory Measure

10.1. It is general policy to mirror arrangements in GB in relation to pensions legislation. This rule mirrors The National Health Service Pension Scheme (Amendment) Regulations 2011 (S.I. 2011/2586) for NHS employees in England and Wales, and The National Health Service Superannuation Scheme etc. (Miscellaneous Amendments) (Scotland) Regulations 2011 (SI 2011 No.364) for NHS employees in Scotland.

11. Additional Information

11.1. Not applicable.