EXPLANATORY MEMORANDUM TO

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

S.R. 2022 No. 153

1. Introduction

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

1.2. The Statutory Rule is made under sections 1(1) and (2)(e), 2(1) and 3(1) to (4) of, and paragraph 5 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014 and is subject to the negative resolution procedures.

2. Matters of special interest to the Examiner of Statutory Rules

2.1. The Department of Health apologies to the Examiner that this rule, which comes into force on 25th March 2022, is laid in breach of the 21-day rule.

2.2. The Statutory Rule extends the current suspension of pension abatement for the HSC scheme that was introduced by the Coronavirus Act in order to reduce pressure on the health service by allowing retired staff to return to work for longer hours than they would otherwise have been able to without reduction in their pension.

2.3. The suspension is due to expire under the Coronavirus Act on 24 March and the original intention was to allow this to happen. The Omicron variant has however extended the current pressures on the health service and therefore a recent decision was taken by all health departments across the UK to extend the current suspension to 31 October.

2.4. Given the tight timescales the original intention was to bring the extension in with retrospective effect to ensure continuous coverage. Since then it has become clear that, with a number of new retirees wishing to return to employment immediately, the lack of certainty caused by any gap in the legislative cover was creating concern for the service.

2.5. It was therefore agreed with stakeholders that the consultation on the extension would be cut short in order that the legislation could be in place before the current suspension expired. This has meant an extremely fast turnaround without the time for the usual timescales to be observed.

3. Purpose

3.1. The Statutory Rule will extend the current suspension of pension abatement for the HSC Scheme until 31 October 2022. This is currently suspended due to the Covid situation and, due to ongoing pressures in the service.

4. Policy Background – What is being done and why

4.1. A key component of the government's response to the coronavirus (COVID-19) pandemic has been measures to boost the available HSC workforce. Accordingly, section 47 of the Coronavirus Act 2020 suspends rules in the HSC Pension Scheme to allow retired and partially retired staff to return to work or increase their working commitments without having their pension benefits suspended.

4.2. The suspension of the HSC Pension Scheme restrictions relating to retired staff returning to work will cease to have effect from 25 March 2022 when section 47 of the Coronavirus Act 2020 expires. The emergence of the Omicron variant has however meant that the HSC response to the coronavirus pandemic has lasted longer than was initially anticipated and the Department of Health, along with their counterparts across the UK, has listened to concerns from the service and is of the view that the suspension of the restrictions on return to work should continue until 31 October 2022.

4.3. The draft Regulations continue the easement of the restrictions via temporary modifications to the HSC Pension Scheme regulations. These changes would take effect from 25 March 2022 – to ensure a seamless transition from the expiry of section 47 – and run until 31 October 2022. Section 47 of the Coronavirus Act 2020 expires from 25 March 2022.

4.4. It would have been possible to extend section 47 by way of regulations (subject to the affirmative resolution procedure) made under section 90 of the Coronavirus Act. The Coronavirus Act, however, introduced a package of temporary measures to enable government to respond to the emergency situation and it is felt to be disproportionate to extend the Act when there is alternative legislative means to suspend the restrictions to the HSC Pension Scheme.

5. Consultation

5.1. Consultation on the draft amending regulations ran from 3 February 2022 to 11 March 2022.

5.2. 4 responses were received as follows:-

- 1 individual
- British Dental Association
- British Medical Association
- Royal College of Nursing

All the respondents were supportive of continuing the easements, however they also argued that the abatement rules in the HSC Pension Scheme should be removed entirely.

6. Equality Impact

6.1. This is a temporary extension during the continuing Covid pressures. No long term changes to abatement policy are planned.

7. Regulatory Impact

7.1. A regulatory impact assessment has not been produced for this rule as it is not anticipated that there will be any adverse impact on business, charities social economy or voluntary bodies.

8. Financial Implications

8.1. None from this legislation.

9. Section 24 of the Northern Ireland Act 1998

9.1. Consideration has been given to the human rights implications of these regulations. They are considered compatible with section 24 of the Northern Ireland Act 1998.

10. EU Implications

10.1. None

11. Parity or Replicatory Measure

11.1. Similar legislation has been introduced for the NHS Pension Schemes in England & Wales.

12. Additional Information

12.1. Not applicable.