

2005 No. 661

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Pension Scheme and Injury Benefits)
Amendment Regulations 2005**

<i>Made</i> - - - -	<i>10th March 2005</i>
<i>Laid before Parliament</i>	<i>15th March 2005</i>
<i>Coming into force</i> - -	<i>5th April 2005</i>

The Secretary of State for Health in exercise of the powers conferred by sections 10(1) and (2) and 12(1) and (2) of, and Schedule 3 to, the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate(b), and with the consent of the Treasury(c), hereby makes the following Regulations:

Citation, commencement, effect and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Pension Scheme and Injury Benefits) Amendment Regulations 2005 and—

- (a) shall come into force on 5th April 2005; but
- (b) shall have effect as from 1st April 2004.

(2) In these Regulations—

- (a) the “Pension Scheme Regulations” means the National Health Service Pension Scheme Regulations 1995(d);
- (b) the “Injury Benefits Regulations” means the National Health Service (Injury Benefits) Regulations 1995(e).

Amendment of regulation A2 of the Pension Scheme Regulations

2. In regulation A2 of the Pension Scheme Regulations (interpretation)—

- (a) omit the definitions of “associate general practitioner” and “medical pilot scheme employee”(f);
- (b) insert each of the following definitions at the appropriate place in the alphabetical order—
 - ““additional services”, with regard to—
 - (a) a GMS practice—

(a) 1972 c.11. Section 10 was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c.32) and by section 4(2) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7).
(b) See section 10(4) of the Superannuation Act 1972.
(c) See section 10(1) of the Superannuation Act 1972 and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I.1981/1670).
(d) S.I.1995/300.
(e) S.I.1995/866.
(f) The definition of “medical pilot scheme employee” was inserted by regulation 3 of S.I.1998/2216.

- (i) in relation to England, has the meaning given in regulation 2(1) of the GMS Contracts (England) Regulations (interpretation);
 - (ii) in relation to Wales, has the meaning given in regulation 2(1) of the GMS Contracts (Wales) Regulations (interpretation), or
- (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be additional services within the meaning given in regulation 2(1) of those Regulations;”;
- ““APMS contract” means arrangements under section 16CC(2)(b) of the 1977 Act(a) (primary medical services) between a Primary Care Trust or Local Health Board and an APMS contractor;”;
- ““APMS contractor” means a person with whom a Primary Care Trust or Local Health Board has made arrangements under section 16CC(2)(b) of the 1977 Act, but only if that person is also a person who has entered into, or would be eligible to enter into, a GMS contract or a PMS agreement for the provision of primary medical services;”;
- ““bank holiday” means any day that is specified or proclaimed as a bank holiday, pursuant to section 1 of the Banking and Financial Dealings Act 1971(b);”
- ““CCT” means Certificate of Completion of Training awarded under article 8 of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(c), including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in article 20(3)(a) of that Order;”;
- ““certification services” means –
- (a) in relation to England, services related to the provision of medical certificates listed in Schedule 4 to the GMS Contracts (England) Regulations (list of prescribed medical certificates);
 - (b) in relation to Wales, services related to the provision of medical certificates listed in Schedule 4 to the GMS Contracts (Wales) Regulations (list of prescribed medical certificates);”;
- ““core hours” means the period beginning at 8am and ending at 6:30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;”;
- ““dispensing services” means the provision of drugs, medicines or appliances that may be provided as pharmaceutical services by a registered medical practitioner in accordance with arrangements made under regulation 20 of the National Health Service (Pharmaceutical Services) Regulations 1992(d) (arrangements for the provision of pharmaceutical services by doctors);”;
- ““enhanced services”, with regard to—
- (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations, or
 - (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations;”;
- ““essential services” means the services described in regulation 15(3), (5), (6) and (8) of the GMS Contracts Regulations (whether provided by a GMS practice, a PMS practice or an APMS contractor);”;
- ““the GMS Contracts (England) Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2004(e);”;

(a) Section 16CC was inserted by section 174 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

(b) 1971 c.80.

(c) S.I.2003/1250.

(d) S.I. 1992/662; regulation 20 was amended by regulations 1(3) and 13 of S.I.2004/922 and regulations 7 and 18 of, and Schedule 1 to, S.I.2004/1021.

(e) S.I.2004/291.

“the GMS Contracts (Wales) Regulations” means the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(a);”;

“GMS contract” means—

- (a) in relation to England, a contract under section 28Q of the 1977 Act or under article 13 of the General Medical Services Transitional and Consequential Provisions Order 2004(b) (entitlement to a contract under section 176(3) of the 1977 Act);
- (b) in relation to Wales, a contract under section 28Q of the 1977 Act or under article 13 of the General Medical Services Transitional and Consequential Provisions (Wales) Order 2004(c) (entitlement to a contract under section 176(3) of the 1977 Act);”;

“GMS practice” means—

- (a) a registered medical practitioner,
- (b) two or more individuals practising in partnership, or
- (c) a company limited by shares,

with whom a Primary Care Trust or Local Health Board has entered into a GMS contract;”;

“GP performer” means a registered medical practitioner, other than a trainee practitioner or a locum practitioner, whose name is included in a medical performers list and who performs essential services, additional services, enhanced services, dispensing services, collaborative services, commissioned services, OOH services or certification services (or a combination thereof)—

- (a) under a GMS contract, PMS agreement or APMS contract,
- (b) on behalf of an OOH provider, or
- (c) under a contract of service or for services with a Primary Care Trust or a Local Health Board which relates to arrangements by it to provide services—
 - (i) under section 16CC(2)(a) of the 1977 Act (primary medical services),
 - (ii) under section 28C arrangements made between a Primary Care Trust or a Local Health Board and a Strategic Health Authority;”;

“GP provider” means a GP performer who is—

- (a) a GMS practice, a PMS practice or an APMS contractor,
- (b) a partner in a partnership that is a GMS practice, a PMS practice or an APMS contractor, or
- (c) a shareholder in a company limited by shares that is a GMS practice, PMS practice or APMS contractor,

and who performs medical services as or on behalf of that practice or contractor;”;

“GP trainer” means a registered medical practitioner who is—

- (a) until the coming into force for all purposes of article 4(5)(d) of the General Specialist Medical Practice (Education, Training and Qualifications) Order 2003, approved as a GP Trainer by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(d), or
- (b) from the coming into force for all purposes of that article, approved by the Postgraduate Medical Education and Training Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i);”;

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(e);”;

(a) S.I.2004/478 (W.48).

(b) S.I.2004/433.

(c) S.I.2004/477 (W.47); the relevant amending instrument is S.I.2004/1016 (W.113).

(d) S.I.1997/2817.

(e) 2002 c.17.

““host Trust or Board”—

- (a) in respect of a non-GP provider who is—
 - (i) a partner in a partnership—
 - (aa) that is a GMS practice;
 - (bb) that has entered into a PMS agreement or is an APMS contractor that has entered into an APMS contract for the provision of primary medical services;
 - (ii) a shareholder in a company limited by shares that is a GMS practice or a PMS practice or an APMS contractor that has entered into a PMS agreement or APMS contract for the provision of primary medical services;
 - (iii) an individual who is a PMS practice or an APMS contractor,
means the Primary Care Trust or Local Health Board with which that partnership (in the case of (i)), company (in the case of (ii)) or practice or contractor (in the case of (iii)) has entered into an agreement or contract referred to in those provisions;
- (b) in respect of a practitioner, means the Primary Care Trust or Local Health Board on whose medical performers list his name appears;”;

““non-GP provider” means—

- (a) a partner in a partnership that is a GMS practice who is not a GP provider and who demonstrates to the satisfaction of the Secretary of State that he assists in the provision of NHS services provided by that practice;
- (b) a partner in a partnership—
 - (i) all of whose members have entered into a PMS agreement for the provision of primary medical services, but
 - (ii) who is not a GP provider and who demonstrates to the satisfaction of the Secretary of State that he assists in the provision of NHS services provided by that partnership;
- (c) a partner in a partnership that is an APMS contractor—
 - (i) that has entered into an APMS contract for the provision of primary medical services, but
 - (ii) who is not a GP provider and who demonstrates to the satisfaction of the Secretary of State that he assists in the provision of NHS services provided by that partnership;
- (d) a shareholder in a company limited by shares that is—
 - (i) a GMS practice, or
 - (ii) a PMS practice or APMS contractor that has entered into a PMS agreement or APMS contract for the provision of primary medical services,
but who is not a GP provider and who demonstrates to the satisfaction of the Secretary of State that he assists in the provision of NHS services provided by that company;
- (e) an individual who is a PMS practice or an APMS contractor but who is not a GP provider and who demonstrates to the satisfaction of the Secretary of State that he participates in the provision of NHS services;”;

““OOH provider” shall be construed in accordance with regulation A3;”;

““OOH services” means services which are required to be provided in the out of hours period and which, if provided during core hours by a GMS practice to patients to whom the practice is required by its GMS contract to provide essential services, would be or would be similar to essential services;”;

““out of hours period” means—

- (a) the period beginning at 6:30pm on any day from Monday to Thursday and ending at 8am the following day,
- (b) the period between 6:30pm on Friday and 8am the following Monday, and
- (c) Good Friday, Christmas Day and bank holidays;”;

““PMS agreement” means section 28C arrangements under the 1977 Act or a transitional agreement under Part 4 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(a);”;

““PMS practice” means—

- (a) an individual,
- (b) two or more individuals practising in partnership, or
- (c) a company limited by shares,

with whom or with whose members a Primary Care Trust or Local Health Board has entered into a PMS agreement under which primary medical services are provided (otherwise than by the Primary Care Trust or Local Health Board);”;

““section 28C arrangements” means arrangements for the provision of services made under section 28C of the 1977 Act (personal medical or dental services)(b);”.

- (c) in the definition of “employing authority”—
 - (i) omit paragraph (e),
 - (ii) after paragraph (f) add the following paragraphs—
 - “(g) an OOH provider,
 - (h) an APMS contractor,
 - (i) a GMS practice,
 - (j) a PMS practice;”;
- (d) for the definitions of “medical list”, “practice staff” and “trainee practitioner” substitute respectively—

““medical performers list” means a list of registered medical practitioners prepared and published by a Primary Care Trust pursuant to regulation 3(1) of the National Health Service (Performers Lists) Regulations 2004(c) (performers lists) or by a Local Health Board pursuant to regulation 3(1) of the National Health Service (Performers Lists) (Wales) Regulations 2004 (performers lists)(d);”;

““practice staff” means a person (other than an assistant practitioner, a principal practitioner, a trainee practitioners or a non-GP provider) employed by a GMS practice, a PMS practice, an APMS contractor or an OOH provider to assist in the provision of the services it provides;”

““trainee practitioner” means a GP Registrar and “GP Registrar” means a medical practitioner who is being trained in general practice by—

- (a) until the coming into force for all purposes of article 4(5)(d) (in relation to England) and article 5 (in relation to Wales) of the General Specialist Medical Practice (Education Training and Qualifications) Order 2003, a general medical practitioner who—
 - (i) has been approved for that purpose by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997, and
 - (ii) performs primary medical services, and
- (b) from the coming into force for all purposes of that article—
 - (i) in relation to England, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;
 - (ii) in relation to Wales, a medical practitioner who is being trained in general practice by a GP trainer whether as part of training leading to the award of CCT or otherwise;”;

(a) S.I. 2004/865.

(b) Section 28C was inserted by section 21(1) of the National Health Service (Primary Care) Act 1997 (c.46).

(c) S.I.2004/585.

(d) S.I.2004/1020 (W.117).

- (e) in the definition of “officer”, after “person” insert “other than a GP performer”; and
- (f) in the definition of “practitioner”(a), for paragraph (a) substitute—
 - “(a) a registered medical practitioner, other than a trainee practitioner, who is a locum practitioner, a GP provider or a GP performer;”.

Insertion of regulation A3 in the Pension Scheme Regulations

3. After regulation A2 of the Pension Scheme Regulations insert—

“Approved Out of Hours providers

A3.—(1) For the purposes of these Regulations, an “OOH provider” is—

- (a) a company limited by guarantee (which is not otherwise an employing authority)—
 - (i) in which all the members of the company are registered medical practitioners, APMS contractors, GMS practices or PMS practices, and the majority of those members are—
 - (aa) APMS contractors, GMS practices or PMS practices whose APMS contracts, GMS contracts or PMS agreements require them to provide OOH services, or
 - (bb) registered medical practitioners who are partners or shareholders in an APMS contractor, a GMS practice or a PMS practice which is a partnership or a company limited by shares and which is required to provide OOH services under its GMS contract, PMS agreement or APMS contract,
 - (ii) which has a contract with a Primary Care Trust, a Local Health Board, an APMS contractor or a GMS or PMS practice for the provision of OOH services, and
 - (iii) in respect of which a Primary Care Trust or Local Health Board appointed by the Secretary of State or the National Assembly of Wales to act on his or its behalf—
 - (aa) is satisfied that the provision of OOH services by the company is wholly or mainly a mutual trading activity,
 - (bb) is satisfied that the company has met all the conditions for being an OOH provider in this regulation; and
 - (cc) has, pursuant to a written application made by the company to it for that purpose, approved the company as an employing authority; or
- (b) some other body corporate (which is not otherwise an employing authority) which—
 - (i) operates in the interests of those who are the recipients of the primary medical services it provides or of the general public,
 - (ii) operates on a not-for-profit basis,
 - (iii) is not an associated company in relation to another person,
 - (iv) has memorandum or articles or rules that—
 - (aa) prohibit the payment of dividends to its members,
 - (bb) require its profits (if any) or other income to be applied to promoting its objects, and
 - (cc) require all the assets which would otherwise be available to its members generally to be transferred on its winding up either to another body which operates on a not-for-profit basis and whose purpose is to provide health or social care for the benefit of the community or to another body the objects of which are the promotion of charity and anything incidental or conducive thereto,
 - (v) has at least one member who is—

(a) To which there are amendments not relevant to this instrument.

- (aa) an APMS contractor, a GMS practice or a PMS practice,
- (bb) a partner in a partnership that is an APMS contractor, a GMS practice or a PMS practice, or
- (cc) a shareholder in a company limited by shares that is an APMS contractor, a GMS practice or a PMS practice,
- (vi) has a contract with a Primary Care Trust or Local Health Board, an APMS contractor, a GMS practice or a PMS practice, for the provision of OOH services, and
- (vii) is approved as an employing authority by a Primary Care Trust or Local Health Board appointed by the Secretary of State to act on his behalf—
 - (aa) pursuant to a written application made by the body to it for that purpose, and
 - (bb) that Trust or Board being satisfied that the body has met all the conditions for being an OOH provider in this regulation.

(2) For the purposes of paragraph (1)(b)(iii), a body corporate is to be treated as another person's "associated company" if that person has control of it, except where that person is an employing authority; and for these purposes a person shall be taken to have control of a body corporate if he exercises, or is able to exercise, or is entitled to acquire, direct or indirect, control over its affairs.

(3) A company limited by guarantee or other body corporate which provides or is to provide OOH services and which wishes to be approved as an employing authority shall make a written application to a Primary Care Trust or Local Health Board appointed by the Secretary of State to act on his behalf ("the appointed Trust or Board").

(4) An application referred to in paragraph (3) may specify the date from which approval by the appointed Trust or Board (if given) shall have effect ("the nominated date").

(5) Where, before 30th June 2005—

- (a) a company limited by guarantee or other body corporate makes an application which contains a nominated date earlier than the date on which approval is subsequently given ("the approval date"); and
- (b) the appointed Trust or Board is satisfied that, throughout the period beginning with the nominated date and ending with the approval date, the company or other body corporate has satisfied the conditions for approval,

that approval shall be treated as having been given on the nominated date.

(6) Where, before 30th June 2005—

- (a) a company limited by guarantee or other body corporate makes an application which contains a nominated date later than the approval date; and
- (b) the appointed Trust or Board is satisfied that the company or other body corporate will satisfy the conditions for approval at that later date,

that approval shall take effect on the nominated date.

(7) Where, on or after 30th June 2005, a company limited by guarantee or other body corporate makes an application and—

- (a) the appointed Trust or Board is satisfied that the company or other body corporate meets the conditions for approval or will do so at any nominated date which is later than the approval date; and
- (b) it approves that application,

that approval shall take effect on the later of the nominated date and the approval date.

(8) Where—

- (a) paragraph (5) or (6) applies, NHS employment shall be treated as commencing on the nominated date;
- (b) paragraph (7) applies, it shall be treated as commencing on the later of the nominated date (if any) and the approval date.

(9) For the purposes of this regulation—

- (a) the conditions for approval are those referred to in paragraph (1)(a) or (b) as the case may be; and
 - (b) the “nominated date” cannot be a date earlier than 1st April 2004.
- (10) The appointed Trust or Board may give an OOH provider a notice in writing terminating its participation in the scheme where that provider—
- (a) does not have in force a guarantee, indemnity or bond as required by the Secretary of State in accordance with regulation D2(9);
 - (b) has ceased to satisfy the conditions for approval;
 - (c) has notified the Trust or Board that any one of the following events has occurred in respect of it—
 - (i) a proposal for a voluntary arrangement has been made or approved under Part I of the Insolvency Act 1986^(a) (“the 1986 Act”),
 - (ii) an administration application has been made, or a notice of intention to appoint an administrator has been filed with the court, or an administrator has been appointed under Schedule B1 to the 1986 Act,
 - (iii) a receiver, manager, or administrative receiver has been appointed under Part III of the 1986 Act,
 - (iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed under Part IV or Part V of the 1986 Act or an instrument of dissolution has been drawn up in accordance with section 58 of the Industrial and Provident Societies Act 1965^(b), or
 - (v) notice has been received by it that it may be struck off the register of companies, or an application to strike it off has been made, under Part XX of the Companies Act 1985^(c).
- (11) An OOH provider—
- (a) shall give the appointed Trust or Board notice in writing upon the occurrence of any of the events referred to in (10)(c) and shall give such notice on the same day as that event;
 - (b) that wishes to cease to participate in the scheme shall give the appointed Trust or Board and its employees not less than 3 months notice in writing (to commence with the date of the notice) of that fact.
- (12) An OOH provider shall cease to participate in the scheme on—
- (a) such date as the appointed Trust or Board may specify in a notice under paragraph (10);
 - (b) the day upon which the period referred to in paragraph (11)(b) expires where a notice under that sub-paragraph (b) has been given.”.

Amendment of regulation B4 of the Pension Scheme Regulations

4.—(1) Regulation B4 (opting-out of the scheme) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (2), substitute—

“(1A) Where, following an application under regulation A3(5) an OOH provider is approved as an employing authority, an employee of such a provider who does not wish to, or who no longer wishes to, participate in the scheme—

- (a) may opt-out of it from any day falling within the period specified in paragraph (1B) by giving notice in writing (“an opt-out notice”) to that provider; and

(a) 1986 c.45.
 (b) 1965 c.12.
 (c) 1985 c.6.

- (b) will be treated as having left pensionable employment on the date on which that notice takes effect.

(1B) That period—

- (a) starts on the date on which NHS employment is treated as commencing under regulation A3(8); and
- (b) ends on the date on which the opt-out notice is received by the OOH provider.

(1C) A notice referred to in paragraph (1A) must be given no later than one month from the end of the pay period in which the date on which approval of an application under regulation A3 falls.

(2) A notice—

- (a) referred to in paragraph (1) shall take effect—
 - (i) from the first day of the pay period immediately following its receipt by the employing authority; or
 - (ii) where a later date is specified in the notice, from the first day of the day period following the pay period in which the specified date falls;
- (b) referred to in paragraph (1A) shall take effect—
 - (i) from the first day of the pay period immediately following its receipt by the employing authority; or
 - (ii) where a date not earlier than the date on which NHS employment is treated as commencing under regulation A3(8) is specified in the notice, from that date.

(3) A person—

- (a) who opts-out of the scheme under paragraph (1) before the end of the pay period during which the employing authority included that person in the scheme; or
- (b) whose opt-out under paragraph (1A) takes effect in respect of that period,

shall be treated as never having been included in the scheme.”.

(3) In paragraph (5) after “opt-out of the scheme”, insert “In accordance with paragraph (1)”.

(4) After paragraph (5), insert—

“(5A) Subject to paragraph (6), a person who has previously opted-out of the scheme in accordance with paragraph (1A) may, if eligible to do so, join or rejoin the scheme by giving notice in writing to the employing authority and on so doing shall be included in the scheme on—

- (a) the first day of the first pay period after the notice to join or rejoin the scheme is received; or
- (b) such other date, being—
 - (i) the first day of a pay period; and
 - (ii) no earlier than the first day of the pay period immediately following the pay period in which the opt-out notice referred to in paragraph (1A) (or the latest of them) took effect in accordance with paragraph (2),

as is specified in that notice.”.

Amendment of regulation C1 of the Pension Scheme Regulations

5. For paragraph (1) of regulation C1 (meaning of “pensionable pay” and “final year’s pensionable pay”)(a), substitute—

“(1) In these Regulations, “pensionable pay” means, subject to the provisions of this regulation—

- (a) all salary, wages, fees and other regular payments made to a member in respect of pensionable employment as an officer, but does not include bonuses, payments made to cover expenses or payments for overtime;

(a) To which there are amendments not relevant to this instrument.

- (b) pensionable earnings calculated in accordance with paragraph 3, or as the case may be, paragraph 4 of Schedule 2 in the case of a non-GP provider who does not receive any of the payments referred to above in respect of his pensionable employment as an officer by virtue of the application of these Regulations to him as if he were such an officer under regulation R1.”.

Amendment of regulation D1 of the Pension Scheme Regulations

6. In regulation D1 of the Pension Scheme Regulations (contributions by members), after paragraph (5)(a) add—

“(6) Without prejudice to any other method of recovery, where an employing authority has failed to deduct contributions in accordance with paragraph (5), the Secretary of State may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them where—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member’s advantage.”.

Amendment of regulation D2 of the Pension Scheme Regulations

7. In regulation D2 of the Pension Scheme Regulations (contributions by employing authorities), after paragraph (8) add—

“(9) Where an employing authority which is—

- (a) a GMS practice;
- (b) a PMS practice;
- (c) an APMS contractor; or
- (d) an OOH provider,

fails to pay or remit contributions in accordance with the provisions of this regulation, the Secretary of State may thereafter require that authority to have in force a guarantee, indemnity or bond in a form and amount, and provided by a person, approved by the Secretary of State, which provides for payment to the Secretary of State of all future liabilities of the employing authority under these Regulations or under the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(b) should that authority fail to meet them.”.

Amendment of regulation R1 of the Pension Scheme Regulations

8. In Regulation R1 of the Pension Scheme Regulations (practitioners and trainee practitioners), after paragraph (2)(c) add—

“(3) These Regulations apply from 1st April 2004 to a non-GP provider as if they were a whole-time officer employed by the relevant Primary Care Trust or Local Health Board.”.

Amendment of regulation R11 of the Pension Scheme Regulations

9. In paragraph (1) of regulation R11(d) of the Pension Scheme Regulations (participants in pilot schemes)—

- (a) in sub-paragraph (a), omit “a registered medical practitioner or”;
- (b) in sub-paragraph (a)(i), omit “a medical pilot scheme employee,”;
- (c) for sub-paragraph (d), substitute—

(a) Paragraph (5) was amended by regulation 5 of S.I.1998/2216.
(b) S.I.2000/619.
(c) Paragraph (2) was amended by regulation 14 of, and Schedule 11 to, S.I.2002/2469.
(d) Sub-paragraphs (a), (d) and (f) were amended by regulations 2 and 12 of S.I.2000/605.

- “(d) a registered dentist, to whom sub-paragraph (a) does not apply, shall—
 - (i) if he is providing piloted services, be treated as a practitioner employed by the relevant Health Authority or Primary Care Trust; or
 - (ii) if he is a dental pilot scheme employee, be treated as an officer employed by the provider of the piloted services;”;
- (d) in sub-paragraph (e), omit “a medical pilot scheme employee, or as”;
- (e) omit sub-paragraph (f)(ii);
- (f) omit sub-paragraph (g).

Amendment of regulation U3 of the Pension Scheme Regulations

10. In regulation U3 of the Pension Scheme Regulations (accounts and actuarial reports)—

- (a) in paragraph (3) for “31st March 1999” and “5 years” substitute “31st March 2008” and “4 years” respectively,;
- (b) for paragraph (5)(a), substitute—
 - “(5) Employing authorities shall keep records of all—
 - (a) contributions deducted from salaries and wages; and
 - (b) contributions to the scheme made under regulation D2(1)

in a manner approved by the Secretary of State, and, except where the Secretary of State waives such requirement, provide a statement in respect of such matters in respect of all scheme members except principal practitioners and non-GP providers to the Secretary of State within 2 calendar months of the end of each financial year.

(6) In respect of each financial year, employing authorities shall also provide the Secretary of State with the best estimate in writing that can reasonably be made of the total contributions due to the scheme under regulation D1 and D2(1) within 2 months of the end of each such year.”.

Amendment of Schedule 2 to the Pension Scheme Regulations

11.—(1) Schedule 2 to the Pension Scheme Regulations (medical and dental practitioners) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph 1(b) (additional definitions)—
 - (a) omit the definition of “associate practitioner”;
 - (b) for the definitions of “assistant practitioner”, “locum practitioner” and “principal practitioner” substitute respectively—
 - ““assistant practitioner” means—
 - (a) in the case of a registered medical practitioner—
 - (i) a GP performer who is not a GP provider but who is—
 - (aa) employed (whether under a contract of service or for services) by a GMS practice, a PMS practice, an APMS contractor, an OOH provider, a Primary Care Trust or a Local Health Board; and
 - (bb) who in that employment is engaged wholly or mainly in assisting his employer in the discharge of the employer’s duties as a GMS practice, a PMS practice, an APMS contractor or an OOH provider or a Primary Care Trust or Local Health Board; or
 - (ii) a registered medical practitioner who is participating in a Doctor’s Retainer Scheme;

(a) Paragraph (5) was amended by regulation 2 of, and paragraph (5) of the Schedule to, S.I.2003/631.
 (b) To which there are amendments not relevant to this instrument.

- (b) in the case of a dental practitioner, means a practitioner on a supplementary list 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 registered dentist;”;
- ““locum practitioner” means a registered medical practitioner (other than a trainee practitioner) whose name is included in a medical performers list and who is engaged, otherwise than in pursuance of a commercial arrangement with an agent, under a contract for services by—
- (a) a GMS practice;
 - (b) a PMS practice;
 - (c) an APMS contractor;
 - (d) an OOH provider; or
 - (e) a Primary Care Trust or Local Health Board,
- to deputise or assist temporarily in the provision of essential services, additional services, enhanced services, dispensing services, OOH services, commissioned services, certification services or collaborative services (or any combination thereof);”;
- ““principal practitioner” means—
- (a) in the case of a registered medical practitioner, a GP provider;
 - (b) in the case of a dental practitioner, a registered dentist who is included in a list prepared in accordance with regulation 4(1) of the National Health Service (General Dental Services) Regulations 1992(a) (dental lists);”;
- (c) insert each of the following definitions at the appropriate place in the alphabetical order—
- ““Board and advisory work” means—
- (a) work undertaken as a member of the Board of an employing authority which is not a GMS practice, a PMS practice, an APMS contractor or an OOH provider; or
 - (b) advisory work commissioned by and undertaken on behalf of such an authority, where it is connected to the authority’s role in performing, or securing the delivery of, primary medical services or associated management activities or similar duties,
- but which is not in itself the performance of primary medical services, and payment for which is made by that authority directly to the person carrying out that work;”;
- ““collaborative services” means primary medical services provided by a GP performer, a GMS practice, a PMS practice, an APMS contractor or an OOH provider under or as a result of an arrangement between—
- (a) the Secretary of State, the National Assembly for Wales, a Primary Care Trust or a Local Health Board; and
 - (b) a local authority,
- under section 26(4) of the 1977 Act, under which the Secretary of State, the National Assembly for Wales, the Primary Care Trust or the Local Health Board is responsible for providing services for purposes related to the provision of health care;”;
- ““commissioned services” means medical services provided under a contract between—
- (a) a GP performer, a GMS practice, a PMS practice, an APMS contractor or an OOH provider; and
 - (b) either—
 - (i) a Strategic Health Authority or a Special Health Authority, which relates to the provision of health care,
 - (ii) the Secretary of State, the National Assembly for Wales, a Primary Care Trust or a Local Health Board under section 23 of the 1977 Act(a) (which relates to

(a) S.I. 1992/661; the relevant amending instruments are regulation 4 of S.I.1995/3092, regulation 4 of S.I.1998/1648, regulations 2 and 4 of S.I.2001/289, regulations 2 and 4 of S.I.2001/2133, regulation 2 of S.I.2001/2421, regulations 1 and 3 of S.I.2001/3741, regulation 2 of S.I.2001/3963 and regulations 2 and 4 of S.I.2001/4000, regulations 1, 3 and 14 of S.I.2002/1881 and regulation 8 of S.I.2002/2469.

- arrangements made with any person or body, including a voluntary one, for the provision of services under the Act),
- (iii) a National Health Service trust under paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990**(b)** (National Health Service trusts – specific powers), or
 - (iv) a National Health Service foundation trust under section 18(2)(b) of the Health and Social Care (Community Health and Standards) Act 2003**(c)**, which is for the purposes of the health service;”;
- ““local authority” means—
- (a) any of the bodies listed in section 1 of the Local Authority Social Services Act 1970 (local authorities)**(d)**, or
 - (b) the Council of the Isles of Scilly;”.
- (3) In paragraph 2 (application of Regulations with modifications) in—
- (a) sub-paragraph (1) omit the words “or the appropriate contracting party”, in both places where they appear;
 - (b) sub-paragraph (1A)—
 - (i) for paragraph (a) in the definition of “the listing authority”, substitute—
“(a) the medical performers list; or”;
 - (ii) omit the definition of “appropriate contracting party”.
- (4) In paragraph 3 (meaning of “pensionable earnings”)—
- (a) in sub-paragraph (1)—
 - “(i) after “principal practitioner”, insert “and a non-GP provider who is not in receipt of a salary, wages, fees or any other regular payment in respect of his employment as an officer by virtue of the application of these Regulations to him as if he were such an officer under regulation R1;.
 - (ii) for paragraph (a) substitute—
 - (a) any sum on account of practice expenses; and”;
 - (b) for sub-paragraph (2)(a)**(e)** substitute—
 - “(a) income which accrues to the practitioner or the non-GP provider which is derived from—
 - (i) a GMS contract,
 - (ii) a PMS agreement,
 - (iii) an APMS contract,
 - (iv) payments from, or to, a practitioner who is a GMS practice, a PMS practice or an APMS contractor in respect of the performance of certification services, commissioned services or collaborative services,
 - (v) his engagement by a Primary Care Trust or a Local Health Board to assist in the provision of primary medical services under section 16CC(2)(a) of the 1977 Act,
 - (vi) in the case of a practitioner, the provision of locum services,

(a) Section 23 was amended by section 25 of, and Schedule 7 to, the Health Services Act 1980 (c.), section 4 of, and Schedule 3, to Road Traffic (Consequential Provisions) Act 1988 (c.), section 63 of, Schedule 3 to, the Vehicle Excise and Registration Act 1994 (c.), section 2 of, and Schedule 1 to, the Health Authorities Act 1995 (c.), sections 1 and 6 of, and Schedules 1 and 5 to, the National Health Service Reform and Health Care Professions Act 2002 and article 3 of, and Schedule 1 to S.I.2000/90.

(b) 1990 c.19; paragraph 13 was amended by section 1 of, and Schedule 1 to, the National Health Service Reform and Health Care Professions Act 2002.

(c) To which there are amendments not relevant to this instrument.

(d) 1970 c.42; section 1 was amended by the Local Government Act 1972 (c.70), section 195 and by the Local Government (Wales) Act 1994 (c.19), Schedule 10, paragraph 7.

(e) Sub-paragraph (2)(a) was amended by regulation 8 of, and Schedule 5 to, S.I.2002/2469 and regulation 4(1) and (4)(a) of S.I.2003/631.

- (vii) payments made to a principal practitioner by an OOH provider in respect of the performance of primary medical services, commissioned services, collaborative services and certification services,
 - (viii) payments made to a principal practitioner by an employing authority in respect of general dental services, general ophthalmic services or pharmaceutical services provided by the practitioner,
 - (ix) practice-based work carried out in educating or training, or organising the education or training of, medical students or practitioners.”;
- (c) for sub-paragraph (2)(d), substitute—
- “(d) in the case of a practitioner, allowances and any other sums (but excluding payments made to cover expenses) paid in respect of Board and advisory work.”.
- (5) For paragraph 4(a) (calculating “pensionable earnings” of practitioners in partnership), substitute—
- “Calculating pensionable earnings of practitioners in partnership**
- 4.—(1) In the case of practitioners practising in partnership (with or without a non-GP provider who is a partner in a partnership), the pensionable earnings of each principal practitioner and non-GP provider who is a partner in a partnership shall be calculated by aggregating the pensionable earnings of each (including for this purpose, any amount that would constitute pensionable 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 and any non-GP providers who are partners in a partnership do not share equally in the partnership profits, they may elect that each partner’s pensionable earnings shall correspond to each partner’s share of the partnership profits.
- (3) Where a registered medical practitioner practising in partnership also has earnings in respect of NHS employment otherwise than as a practitioner, the partners may elect that the pensionable 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 pensionable earnings of each of them (including that practitioner) be then increased in proportion to their respective shares of the partnership profits.
- (4) The calculations described in sub-paragraphs (2) and (3) will be made by the Local Health Board or Primary Care Trust to which the partners are required to give notice of their election in accordance with paragraph 5.”.
- (6) In paragraph 5 (elections relating to calculation of “pensionable earnings” in partnerships) —
- (a) in sub-paragraph (1) after—
 - (i) “Practitioner’s”, insert “and any non-GP providers who are partners in any partnership”;
 - (ii) “writing”, insert “to their host Trust or Board”;
 - (b) in sub-paragraph (4) after—
 - (i) “principal practitioners” insert “and non-GP providers”;
 - (ii) “each practitioner’s” insert “and non-GP provider’s”;
 - (c) omit sub-paragraph (3);
 - (d) sub-paragraph (5) for “quarter” in both places where it occurs, substitute “financial year”.
- (7) In paragraph 6 (meaning of “pensionable earnings” in relation to other practitioners)—
- (a) for sub-paragraph (1)(b), substitute—

“(1) In the case of an assistant practitioner, “pensionable earnings” means—

 - (a) all salary, wages, fees and other regular payments paid to the practitioner by an employing authority in respect of the performance of essential services, additional services, enhanced services, dispensing services, OOH services, commissioned services, certification services,

(a) To which there are amendments not relevant to this instrument.

(b) Sub-paragraph (1) was amended by regulation 12(2) of S.I.1998/666, regulations 5 and 15(d) of S.I.2000/605, regulation 2 of, and paragraph 10(1) and (8) of the schedule to, S.I.2002/561 and regulation 4(1) and (5) of S.I.2003/631.

collaborative services, general dental services or pharmaceutical services; but does not include bonuses or payments made to cover expenses or for overtime;

- (b) allowances and other sums (but excluding payments made to cover expenses) paid by an employing authority in respect of Board and advisory work; and
 - (c) practice-based work carried out in educating or training, or organising the education or training of, medical students or practitioners.”;
- (b) in sub-paragraph (2)—
- (i) in paragraph (a) before “practitioner”, insert “dental”;
 - (ii) in paragraph (b) omit “medical or”;
- (c) for sub-paragraph (4), substitute—
- “(4) In this paragraph, references to the provision of locum services, in relation to a practitioner, are to primary medical services, commissioned services, collaborative services or pharmaceutical services performed by a practitioner engaged by an employing authority under a contract for services to deputise for a registered medical practitioner or to temporarily assist in the provision of such services.”.
- (8) For paragraph 10 (contributions to the scheme), substitute—

“Contributions to the scheme

10.—(1) In the case of members who are practitioners or non-GP providers, regulation D1 (contributions by members) and regulation D2 (contributions by employing authorities) are modified as described in the following sub-paragraphs.

(2) The contribution rate for practitioners and non-GP providers is 6 per cent of pensionable earnings.

(3) Contributions must be paid until the member—

- (a) reaches age 70 or completes 45 years’ pensionable service and reaches age 65, if the member is not a special class officer;
- (b) reaches age 65, or completes 45 years’ pensionable service and reaches age 60, if the member is a special class officer.

(4) Save where sub-paragraph (5) applies, principal practitioners and non-GP providers shall pay D1 contributions to the host Trust or Board and dental practitioners shall pay such contributions to the Dental Practice Board.

(5) Where a principal practitioner or a non-GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority shall—

- (a) deduct D1 contributions from any pensionable earnings it pays to him; and
- (b) where it is not also the host Trust or Board, pay those contributions to that Trust or Board.

(6) Subject to sub-paragraph (7), where a principal practitioner or a non-GP provider is—

- (a) an employing authority which is a GMS practice, a PMS practice or an APMS contractor;
or
- (b) a shareholder or partner in such an employing authority,

that employing authority shall pay D2(1) contributions to the host Trust or Board.

(7) Where the principal practitioner or non-GP provider is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), each such employing authority shall pay D2(1) contributions on any pensionable earnings it pays to the practitioner or non-GP provider or, as the case may be, on the practitioner’s or non-GP provider’s share of the partnership profits, to the host Trust or Board.

(8) Where sub-paragraph (5) applies (but sub-paragraph (6) does not) and the employing authority referred to in that sub-paragraph is—

- (a) not the host Trust or Board, that authority shall pay D2(1) contributions to the host Trust or Board;
- (b) is the host Trust or Board, that Trust or Board shall pay contributions to the Secretary of State in respect of any pensionable earnings it pays to him.

(9) Where an assistant practitioner (other than a locum practitioner) is engaged under a contract of service or for services by an employing authority, that authority shall—

- (a) deduct D1 contributions from any pensionable earnings it pays to him; and
- (b) where it is not also the host Trust or Board, pay those contributions to that Trust or Board.

(10) Where paragraph (9) applies, and the employing authority referred to in that sub-paragraph—

- (a) is not the host Trust or Board, that authority shall pay D2(1) contributions to the host Trust or Board;
- (b) is the host Trust or Board, that Trust or Board shall pay D1 and D2(1) contributions to the Secretary of State in respect of any pensionable earnings it pays to him.

(11) Locum practitioners must pay D1 contributions to the host Trust or Board.

(12) Where a locum practitioner is liable to pay contributions under sub-paragraph (11) in respect of pensionable locum work he does for an employing authority which is not—

- (a) the host Trust or Board;
- (b) a GMS practice;
- (c) a PMS practice; or
- (d) an APMS contractor,

that employing authority shall pay D2(1) contributions to the host Trust or Board.

(13) Where contributions are payable by a locum practitioner under sub-paragraph (11) in respect of pensionable locum work carried out for an employing authority which is—

- (a) a host Trust or Board;
- (b) a GMS practice;
- (c) a PMS practice; or
- (d) an APMS contractor,

the host Trust or Board shall pay contributions payable under regulation D2(1) in respect of such a practitioner.

(14) Contributions which are required to be paid to the host Trust or Board in accordance with this paragraph shall be paid to that Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

(15) Where an employing authority—

- (a) is not the host Trust or Board, it shall be a function of that employing authority to provide the host Trust or Board with a record of any—
 - (i) pensionable earnings paid by it to a practitioner;
 - (ii) contributions deducted by it in accordance with sub-paragraph (5) or (9), not later than the 7th day of the month following the month in which the earnings were paid;
- (b) is the host Trust or Board that has deducted contributions in accordance with sub-paragraph (5) or (9) and is liable to pay D2(1) contributions in respect of any pensionable earnings it pays to a practitioner, it shall be a function of that Trust or Board to maintain a record of—
 - (i) the matters referred to in paragraph (a)(i) and (ii) above;
 - (ii) any contributions paid to it by a principal practitioner; and
 - (iii) any contributions paid to it by a locum practitioner.

(16) It shall be a function of the host Trust or Board to pay the contributions—

- (a) paid to it by a principal practitioner or locum practitioner;

- (b) paid to it by another employing authority;
- (c) it is liable to pay by virtue of sub-paragraphs (8)(b) and (10)(b),

in accordance with the provisions of this paragraph, to the Secretary of State not later than the 19th day of the month following the month in which the earnings were paid.

(17) Without prejudice to any other method of recovery, where in respect of D1 contributions—

- (a) a principal practitioner, assistant practitioner, locum practitioner or non-GP provider has failed to pay contributions;
- (b) an employing authority has failed to deduct such contributions,

in accordance with this paragraph, the Secretary of State may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them where—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member's advantage.

(18) For the purposes of this paragraph—

- (a) "D1 contributions" means contributions payable under regulation D1 by a practitioner under the scheme;
- (b) "D2(1) contributions" means contributions payable under regulation D2(1) by an employing authority in respect of a practitioner."

(9) In sub-paragraph (6)(a) of paragraph 19 (members absent from work)—

- (a) omit the words "medical or" in both places where they occur;
- (b) in paragraph (b), omit the words from "whether" to the end.

(10) After paragraph 22 (reduction of pension on return to NHS employment), add—

"Accounts and actuarial reports

23.—(1) In the case of members who are practitioners or non-GP providers, regulation U3 (U3 accounts and actuarial reports) is modified as described in this paragraph.

(2) In respect of each financial year, a principal practitioner and a non-GP provider shall provide the host Trust or Board with a certificate of their pensionable earnings based on—

- (a) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which he is a member; and
- (b) the return he has made to the Inland Revenue in respect of his earnings for that year,

no later than 1 month from the date on which that return was required to be submitted to the Inland Revenue.

(3) In respect of each financial year, a host Trust or Board shall forward a record of—

- (a) all contributions to the scheme made under paragraph 10 in respect of principal practitioners and non-GP providers; and
- (b) their pensionable earnings,

to the Secretary of State within 1 month of the end of the financial year immediately following the financial year to which that return relates."

Amendment of the Injury Benefits Regulations

12.—(1) The National Health Service (Injury Benefits) Regulations 1995 shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation)—

(a) Sub-paragraph (6) was amended by S.I.1998/2216.

- (a) in—
- (i) the definition of “assistant practitioner”**(a)** for paragraph (a), substitute—
“(a) means a GP performer who is not a GP provider but who is—
- (i) employed (whether under a contract of service or for services) by a GMS practice, a PMS practice, an APMS contractor, an OOH provider, a Primary Care Trust or a Local Health Board; and
- (iii) who in that employment is engaged wholly or mainly in assisting his employer in the discharge of the employer’s duties as a GMS practice, a PMS practice, an APMS contractor or an OOH provider or a Primary Care Trust or Local Health Board;”;
- (ii) the definition of practitioner after “practitioner” in paragraph (f)**(b)** insert “(other than a locum practitioner)” and after sub-paragraph (ii) add—
“(iii) an APMS contract, or”
- (b) at the appropriate place in the alphabetical order, insert—
““APMS contract” has the same meaning as in the Pension Scheme Regulations;”;
““APMS contractor” has the same meaning as in the Pension Scheme Regulations;”;
““enhanced services”, with regard to—
- (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or
- (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of the GMS Contracts Regulations.”.
- ““essential services” has the same meaning as in the Pension Scheme Regulations;”;
““GP performer” has the same meaning as in the Pension Scheme Regulations;”;
““GP provider has the same meaning as in the Pension Scheme Regulations;”;
““GMS practice” has the same meaning as in the Pension Scheme Regulations;”;
““non-GP provider” has the same meaning as in the Pension Scheme Regulations;”;
““OOH provider” shall be construed in accordance with regulation A3 of the pension scheme regulations;”;
““PMS practice” has the same meaning as in the Pension Scheme Regulations;”;
- (3) In regulation 3**(c)** (persons to whom the regulations apply) after paragraph (1)(k), add—
“(g) a non-GP provider”.
- (4) In regulation 4A (recovery of costs) after paragraph (6)(c)**(d)**, add—
“(d) to—
- (i) a person providing personal medical services as if he were a whole-time officer of that Primary Care Trust or Local Health Board;
- (ii) a non-GP provider as if he were a whole-time officer of the Primary Care Trust or Local Health Board that has entered into the GMS contract or APMS contract.”.

(a) The definition of “assistant practitioner” was substituted by paragraph 13(2)(a) of Schedule 1 to S.I.2004/865.
(b) Paragraph (f) was added by paragraph 13(2)(c)(v) of Schedule 1 to S.I.2004/865.
(c) To which there are amendments not relevant to this instrument.
(d) Sub-paragraph (6)(c) was amended by paragraph 13(4) of Schedule 1 to S.I.2004/865.

Signed by authority of the Secretary of State for Health

10th March 2005

John Hutton
Minister of State,
Department of Health

We consent

10th March 2005

John Heppell
Nick Ainger
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service Pension Scheme Regulations 1995 (S.I.1995/300) (“the Pension Scheme Regulations”) and the National Health Service (Injury Benefits) Regulations 1995 (S.I.1995/866) (“the Injury Benefits Regulations”).

Regulation 1(1)(b) provides that the Regulations shall have effect as from 1st April 2004.

Regulations 2 to 10 amend the Pension Scheme Regulations.

Regulation 2 amends regulation A2 (definitions) by inserting various definitions relating to the types of medical services provided, and the persons or bodies who provide them. It also makes amendments to the definition of “employing authority” so as to include those providers.

Regulation 3 inserts new regulation A3 which deals with the date from which a company which satisfies the conditions to be an OOH provider, is to be approved as an “employing authority”. It also sets out the circumstances when such a provider may, and will, cease to be such an employing authority.

Regulation 4 amends regulation B4 (opting-out of the scheme) to enable an employee of an OOH provider that has retrospectively been approved as an employing authority for the purposes of the scheme to opt-out, join or rejoin the scheme during that retrospective period.

Regulation 5 amends regulation C1 (meaning of “pensionable pay” and “final year’s pensionable pay” by substituting a new definition of of “pensionable pay”.

Regulation 6 amends regulation D1 (contributions by members) to provide that where an employing authority has failed to deduct contributions, the Secretary of State may recover the amount of those contributions by deduction from benefits payable to, or in respect of the member if that would be to the member’s advantage and the member agrees to the deduction.

Regulation 7 amends regulation D2 (contributions by employing authorities) by adding a new paragraph (9) which provides that certain employing authorities that have failed to pay or remit contributions to the scheme in the past may, in the future, be required to have in force a guarantee, bond or indemnity to secure future payments of such contributions.

Regulation 8 amends regulation R1 of the Pension Scheme Regulations so as to provide that the pension scheme regulation apply to non-GP providers as if they were whole-time officers as from 1st April 2004.

Regulation 9 amends regulation R11 (which deals with pilot schemes) of the Pension Scheme Regulations by omitting references to a registered medical practitioner engaged in such a scheme;

Regulation 10 amends regulation U3 (accounts and actuarial reports) of the Pension Scheme Regulations so as to require certain employing authorities to provide the Secretary of State with a certificate of pensionable earnings within 12 months of the end of the financial year.

Regulation 11 amends Schedule 2 to the Pension Scheme Regulations as follows—

paragraph (2) amends paragraph 1 of that Schedule by amending and omitting existing definitions and adding new ones. In particular, it adds definitions of “board and advisory work”, “commissioned services” and “collaborative services”;

paragraph (3) makes amendments to paragraph 2 by omitting references to “the appropriate contracting party”;

paragraph (4) amends paragraph 3 to provide new definitions of what constitute “pensionable earnings” for principal practitioners and non-GP providers;

paragraph (5) substitutes paragraph 4 to deal with pensionable earnings of practitioners practising in a partnership with or without a non-GP provider;

paragraph (6) makes consequential amendments to paragraph 5 which deals with the calculation of “pensionable earnings” in a partnership;

paragraph (7) amends paragraph 6 to provide new definitions of what constitutes “pensionable earnings” in relation to practitioners other than principal practitioners;

paragraph (8) amends paragraph 10 so as to specify to whom a principal practitioner must pay his contributions in respect of various services he provides. It also makes similar provision in relation to locum practitioners and non-GP providers and contributions payable by employing authorities;

paragraph (9) amends paragraph 19 by omitting reference to a medical practitioner;

paragraph (10) adds a new paragraph 23 which modifies regulation U3 (accounts and actuarial reports) in respect of practitioners and non-GP providers.

Regulation 12 amends the Injury Benefits Regulations as follows—

paragraph (2) makes amendments to regulation 2 (interpretation) in like manner to those made to regulation A2 of the Pension Scheme Regulations;

paragraph (3) amends regulation 3 (which deals with persons to whom the Injury Benefits Regulations apply) so as to include a non-GP provider and a person providing personal medical services who is not a practitioner;

paragraph (4) amends regulation 4A (which deals with the recovery of costs of providing increases to an allowance or lump sum under Part I of the Pensions (Increase) Act 1971) so that it also applies to a person providing personal medical services and a non-GP provider as if they were whole-time officers of the relevant Primary Care Trust.

2005 No. 661

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Pension Scheme and Injury Benefits)
Amendment Regulations 2005**

£4.00

© Crown copyright 2005

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0501 3/2005 150501T 19585

ISBN 0-11-072518-2



9 780110 725185