

EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (PENSION SCHEME, INJURY BENEFITS AND ADDITIONAL VOLUNTARY CONTRIBUTIONS) AMENDMENT REGULATIONS 2006

2006 No. 600

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

The memorandum contains information for the Joint Committee on Statutory Instruments and for publication on the Office of Public Sector Information website.

2. Description

2.1 The amendments to the National Health Service Pension Scheme Regulations 1995, the National Health Service (Injury Benefits) Regulations 1995 and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 made by this Instrument take account of:

- The new General Dental Practitioner Contract, which is effective from 1 April 2006, and
- Secure NHS Pension Scheme compliance with mandatory changes applying to all registered pension schemes under the Finance Act (2004) from 6 April 2006 (A Day), and

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1. In amendment regulation 21 (4) (a), which amends Schedule 2 of the National Health Service Pension Scheme Regulations 1995, the substituted paragraph (1) (a) has retrospective effect from 1 April 2004.

3.2. Amendments to NHS Pension Scheme regulations, which otherwise would have been necessary, have been avoided by reason of the following two sets of transitional regulations prepared by HMRC, for use by registered pension schemes under the Finance Act 2004, which includes the NHS Pension Scheme. The vires for retrospection is in Section 12 (2) of the Superannuation Act 1972.

- The Registered Pension Schemes (Modification Of The Rules Of Existing Schemes) Regulations SI 364/2006, and
- The Registered Pension Schemes (Unauthorised Payments By Existing Schemes) Regulations SI 365/2006

3.3 The HMRC 'modification' regulations have the effect of importing a number of pre-A Day tax rules (e.g. the 'earnings cap') into the rules of existing schemes, removing the need to make bespoke changes. The regulations apply to schemes until the end of the tax-year 2010-11 or until bespoke tax changes are made, whichever comes first.

3.4. The HMRC ‘unauthorised payments’ regulations have the further effect that where a scheme is obliged to make payments that would otherwise become ‘unauthorised payments’ from A Day under the Finance Act, certain concessions will apply to pre-A Day benefits, to limit the extent of any tax charge payable.

4. Legislative Background

4.1. This Instrument amends the National Health Service Pension Scheme Regulations 1995 (S.I.1995/300) (regulations A2, B2, B5, E2-6, F2, H1, J1, L1-2, N1, R1, R11, T7, U3, Schedule 2 and 2A and inserts new regulation T2A).

4.2. The National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) are also amended (regulations 2-3 and 4A).

4.3. The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) are also amended (regulations 2-6, 8, 10, 11-16, 22 and Schedule 1 and 2).

All the above amendments are made in accordance with powers in sections 10, 12 of, and Schedule 3 to, the Superannuation Act 1972(a).

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

The Minister of State for NHS Reform (Lord Warner of Brockley) is satisfied that the provisions of the National Health Service (Pension Scheme, Injury Benefits and Additional Voluntary Contributions) Amendment Regulations 2006 are compatible with Convention rights.

7. Policy Background

7.1 The amendments made by this Instrument will ensure that the National Health Service Pension Scheme Regulations 1995, the National Health Service (Injury Benefits) Regulations 1995 and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 reflect changes in payment arrangements and new terminology for the General Dental Practitioner Contract coming into force on 1st April 2006.

7.2. The amendments will also ensure that the NHS Scheme is compliant with the mandatory requirements for all registered pension schemes under the Finance Act 2004, which comes into force on 6th April 2006 ‘A Day’. Amendments will also introduce a permissive change under the Finance Act, in the NHS Scheme’s in-house Money Purchase Additional Voluntary Contribution (MPAVC) arrangements. Members will be able to make NHS MPAVCs of up to ‘100% of their NHS salary, less contributions to other registered pension schemes including the NHS Scheme. On retirement, members will also be able to take up to 25% of their invested NHS MPAVC funds only, as a tax-free ‘pension commencement’ lump sum.

8. Impact

8.1 This Instrument has no impact on business, charities or voluntary bodies and no Regulatory Impact Assessment is required.

9. Contact

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