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STATUTORY INSTRUMENTS

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**2008 No. 2263**

**The National Health Service Pension Scheme and  
Injury Benefits (Amendment) Regulations 2008**

**PART 2**

**Amendment of the National Health Service Pension Scheme Regulations 2008**

**Interpretation of Part 2**

**24.** In this Part an alphanumerical reference to a regulation is a reference to a provision of the National Health Service Pension Scheme Regulations 2008<sup>(1)</sup> bearing that designation.

**Amendment of regulation 2.A.1**

**25.**—(1) Regulation 2.A.1 (interpretation: general) is amended as follows.

(2) In regulation 2.A.1—

(a) in the definition of “APMS contract” and “APMS contractor”, for “80(2)(b)” substitute “83(2)(b)”;

(b) before the definition of “corresponding health service scheme” insert—

““corresponding 1995 scheme” means a corresponding health service scheme the provisions of which the Secretary of State has determined correspond to the provisions of the 1995 Regulations;

“corresponding 2008 scheme” means a corresponding health service scheme the provisions of which the Secretary of State has determined correspond to the provisions of these Regulations;”;

(c) for the definition of “corresponding health service scheme” substitute—

““corresponding health service scheme” means—

(a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972<sup>(2)</sup> and having effect in Scotland,

(b) a superannuation scheme provided under Article 12 of the Superannuation (Northern Ireland) Order 1972<sup>(3)</sup>,

(c) a scheme made under section 2 of the Superannuation Act 1984<sup>(4)</sup> (an Act of Tynwald) applies, and

(d) any other occupational pension scheme approved for the purposes of this regulation by the Secretary of State;”;

(d) for the definition of “host Trust or Board” substitute—

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(1) [S.I. 2008/653](#).

(2) [1972 c.11](#).

(3) [S.I. 1972/1073](#).

(4) [1984 c.8](#) (Tynwald).

““host Trust or Board”, in respect of a person who is a registered medical practitioner or non-GP provider who is—

- (a) a partner in a partnership—
  - (i) that is a GMS practice; or
  - (ii) 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;
- (b) a shareholder in a company limited by shares that is a GMS practice, PMS practice or an APMS contractor that has entered into a PMS agreement or APMS contract for the provision of primary medical services;
- (c) an individual who is a GMS practice, PMS practice or an APMS contractor, means each Primary Care Trust or Local Health Board with which that partnership (in the case of (a)), company (in the case of (b)) or practice or contractor (in the case of (c)) has entered into an agreement or contract referred to in those provisions and (in the case of a registered medical practitioner) the relevant Trust or Board on whose medical performers’ list that practitioner’s name appears, and such a person shall be deemed to be employed by the appropriate Trust or Board for the purposes of this Part;;”;
- (e) in the definition of “OOH services”—
  - (i) after “GMS practice” insert “, APMS contractor”;
  - (ii) after “to whom the practice” insert “or contractor”; and
  - (iii) after “GMS contract” insert “, APMS contract”.

#### **Amendment of regulation 2.A.2**

**26.** In regulation 2.A.2 (meaning of “pensionable service”)—

- (a) in paragraph (6), for “2.D.5(8)(a)” substitute “2.D.5(9)(a)”; and
- (b) after paragraph (7) insert—

“(8) Where a member is also a member of the NHS Pension Scheme 1995, any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LPS$$

where—

SP is the shorter period, measured in years and days, and

LPS is the length of pensionable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the NHS Pension Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

#### **Amendment of regulation 2.A.4**

**27.** In regulation 2.A.4 (pensionable service: breaks in service), for paragraph (3) substitute—

“(3) If a member is on leave of absence but does not fall within paragraph (1)(a) to (e), and contributes to the Scheme under regulation 2.C.1 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 6 months commencing with the first day of the member’s leave of absence, 6 months, and
- (b) where the member contributes for a continuous period of less than 6 months commencing with the first day of the member’s leave of absence, the period in respect of which the member pays those contributions.

(3A) If, having paid contributions for the period mentioned in paragraph (3)(a) a member remains on a leave of absence that does not fall within paragraph (1)(a) to (e) and contributes to the Scheme both member contributions under regulation 2.C.1 and employer contributions under regulation 2.C.5 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), 18 months, and
- (b) where the member contributes for a continuous period of less than 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), the period in respect of which the member pays those contributions.”.

#### **Amendment of regulation 2.A.5**

**28.** In regulation 2.A.5 (meaning of “qualifying service”)—

- (a) in paragraph (1)(b), after “pension arrangement” insert “(including the NHS Pension Scheme 1995)”;
- (b) after paragraph (1)(e) insert—
  - “(f) in the case of a person—
    - (i) who is eligible to join the Scheme by virtue of regulation 2.B.1(5)(c), and
    - (ii) for whom the interval between leaving the NHS Pension Scheme 1995 and joining the Scheme is less than one month,a period equal to the period of qualifying service (within the meaning of the 1995 Regulations), measured in years and days, that the member was entitled to count under regulation C3 of the 1995 Regulations when the member left that scheme.”.

#### **Amendment of regulation 2.A.9**

**29.** In regulation 2.A.9 (pensionable pay: breaks in service)—

- (a) in paragraph (2), after “paragraph (3)” insert “in the case of a member who is not a non-GP provider and paragraph (7) in the case of a member who is a non-GP provider”;
- (b) in paragraph (3), before “falling” insert “who is not a non-GP provider”;
- (c) in paragraph (6), for “(up to 6” substitute “or (3A) (up to 24”;
- (d) in paragraph (7), for “2.A.8(9)” substitute “2.A.8(8)”;
- (e) for paragraph (8), substitute—

“(8) If the earnings used to calculate a member’s pensionable pay cease during a period of absence to which this regulation applies—

- (a) a non-GP provider falling within paragraph (1)(a) will, subject to sub-paragraph (b), be treated as having continued in pensionable employment for a period of 12 months from the date on which the member’s earnings ceased and the member will not be treated as having left pensionable employment until the end of that 12 month period;
- (b) a non-GP provider falling within paragraph (1)(b) to (e) of this regulation who paid contributions on the basis of reduced earnings in accordance with paragraph (4)(b) will, subject to paragraph (9), continue to pay contributions at that rate, except that no refund of contributions or other benefit will be payable until the member actually leaves pensionable employment;
- (c) a member other than a non-GP provider will, subject to paragraph (5), be treated as having left pensionable employment except that no refund of contributions or other benefit will be payable until the member actually leaves pensionable employment.

(8A) For the purposes of paragraph (8)(a)—

- (a) during the 12 month period, the non-GP provider’s pensionable earnings will be calculated as described in paragraph (7)(a) or (b);
- (b) at the end of the 12 month period, when the member is regarded as having left pensionable employment, no refund of contributions or other benefit will be payable until the member actually leaves employment.”;

(f) in paragraph (9), after “paragraph (8)” insert “(b)”;

(g) in paragraph (10), for “non-GP provider” (three times) substitute “member”;

(h) in paragraph (11)—

- (i) for “non-GP provider” (twice) substitute “member”;
- (ii) omit “paragraph (7) of”;
- (iii) for “(7)(a) or (8)” substitute “(8)(c), (8A)(b) or (10)”;

(i) in paragraph (12), for “non-GP provider” (three times) substitute “member”.

### **Amendment of regulation 2.B.1**

**30.** In regulation 2.B.1(5) (eligibility: general)—

(a) after paragraph (d) insert—

“(e) the person—

- (i) ceased to be an active member of the NHS Pension Scheme 1995 on leaving NHS employment,
- (ii) became a deferred member of that Scheme on leaving that employment and has not become a pensioner member of that Scheme between the date of leaving that employment and joining the Scheme, and
- (iii) re-entered NHS employment on or after 1st October 2008 and 5 or more years since last leaving NHS employment, or

(f) the person—

- (i) ceased to be an active member of the NHS Pension Scheme 1995 before 1st April 2008 on leaving NHS employment,
- (ii) became a deferred member of that Scheme on leaving that employment,

- (iii) re-entered NHS employment on or after 1st October 2008 and 5 or more years since last leaving NHS employment, and
- (iv) before the person re-entered such employment—
  - (aa) a transfer payment was made in respect of the person under Part M of that Scheme, or
  - (bb) the person made an application under regulation M2 of that Scheme (exercising a right to transfer or buy-out) from which the person may not withdraw,”;
- (b) in the full-out words, for “sub-paragraph (d)” substitute “sub-paragraphs (d) to (f)”.

#### **Amendment of regulation 2.B.2**

- 31.** In regulation 2.B.2 (restrictions on eligibility: general)—
- (a) in paragraph (1)(a), for “parital” substitute “partial”;
  - (b) for paragraph (2)(b) substitute—
    - “(b) became a pensioner member of that Scheme on or after that date, or
    - (c) is a deferred member of that Scheme, but is not a deferred member—
      - (i) to whom regulation 2.B.1(5)(e) or (f) applies, and
      - (ii) in respect of whom permission of the Secretary of State to rejoin the NHS Pension Scheme 1995 has not been granted pursuant to regulation B2(3) of that Scheme.”.

#### **Amendment of regulation 2.C.2**

- 32.** In regulation 2.C.2(3) (members’ contribution rate), after “may” insert “, with the consent of the Treasury,”.

#### **Amendment of regulation 2.C.5**

- 33.** In regulation 2.C.5 (contributions by employing authorities: general)—
- (a) for paragraph (2), substitute—
    - “(2) In specifying such a rate, the Secretary of State must—
      - (a) obtain the consent of the Treasury, and
      - (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971<sup>(5)</sup> and section 59 of the Social Security Pensions Act 1975<sup>(6)</sup>.”;
  - (b) after paragraph (5), insert—
    - “(6) In any particular case the Secretary of State may direct that, for the purposes of this Chapter, “employing authority” includes one or more of—
      - (a) the transferee under a transfer of staff order pursuant to—
        - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;

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<sup>(5)</sup> 1971 c.56.  
<sup>(6)</sup> 1975 c.60.

- (ii) in the case of Wales, section 22(4)(b) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority's business or functions; and
- (c) the last employing authority of a person to whom these Regulations apply.”.

#### **Amendment of regulation 2.D.9**

**34.** In regulation 2.D.9 (re-assessment of entitlement to an ill-health pension determined under regulation 2.D.8), for paragraph 2(a), substitute—

- “(a) in the case of a member who does not engage in further NHS employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the end of that period,
- (aa) in the case of a member who does engage in further NHS employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the first anniversary of the day on which that employment commences or before the end of that period if sooner.”.

#### **Amendment of regulation 2.D.10**

**35.** In regulation 2.D.10 (early retirement on ill-health (deferred members))—

- (a) in paragraph (1)(a), before “incapable” insert “permanently”;
- (b) in paragraph (2)(a)(ii), for “impairment” substitute “infirmity”.

#### **Amendment of regulation 2.E.10**

**36.** In regulation 2.E.10(7) (amount of children's pension under regulation 2.E.8: deceased active members), for “paragraph (4)(b) or (c)” substitute “paragraph (5)(b) or (c)”.

#### **Insertion of new regulation 2.E.20A**

**37.** After regulation 2.E.20 (amount of lump sum: pension credit members), insert—

##### **“Pension payable when member dies on or after reaching age 75**

**2.E.20 A.—**(1) If a pensioner member or a pension credit member dies—

- (a) on or after reaching age 75, and
- (b) before the fifth anniversary of the date on which the member's pension became payable,

an annual pension, calculated in accordance with paragraph (2), may be payable from the day following the date of the member's death until the anniversary referred to in sub-paragraph (b).

(2) The pension payable under paragraph (1) is determined by—

- (a) calculating the amount of the lump sum that would have been payable in respect of the pensioner member or pension credit member under regulation 2.E.17(2) or, as the case may be, 2.E.20 as if on the day the member died the member had not reached the age of 75, and

(b) converting any amount determined in sub-paragraph (a) to an annual pension payable for the period specified in paragraph (1), by reference to guidance and tables provided by the Scheme actuary for the purpose.

(3) The “beginning date” of the pension calculated in paragraph (2) will, for the purposes of the Pensions (Increase) Act 1971, be the day immediately following the date of death of the pensioner member or pension credit member.

(4) The pension calculated under this regulation will be payable in accordance with regulation 2.E.21.”.

### **Amendment of regulation 2.E.21**

**38.** In regulation 2.E.21 (payment of lump sums on death)—

- (a) in the heading to that regulation, after “lump sums” insert “or pensions”;
- (b) in paragraph (1), after “regulation 2.E.16” insert “or a pension payable under regulation 2.E.20A”;
- (c) in paragraph (2)—
  - (i) after “lump sum” insert “or pension”, and
  - (ii) for “under paragraph (4) or (6)” substitute “or body under paragraph (4), (6) or (10)”;
- (d) in paragraphs (3), (4) and (6), after “lump sum” in each paragraph insert “or pension”;
- (e) in paragraph (7), after “lump sum” (twice) insert “or pension”;
- (f) after paragraph (9), insert—

“(10) The member’s personal representatives may, as part of the distribution of the member’s estate, give irrevocable notice to the Secretary of State—

- (a) specifying—
  - (i) one or more individuals, or
  - (ii) one incorporated or unincorporated body,to whom the benefit of the pension under regulation 2.E.20A from the date of receipt of the notice by the Secretary of State is to be assigned, and
- (b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,

and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.

- (11) This paragraph applies if—
  - (a) the person specified in the notice has died before the payment can be made,
  - (b) payment to that person or body is not, in the opinion of the Secretary of State, reasonably practicable, or
  - (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation 2.J.7(4) (forfeiture of rights to benefit) and the Secretary of State has directed, as a consequence of that conviction, that the person’s right to a payment in respect of the member’s death is forfeited.

(12) The prohibition on assignment of benefits in regulation 2.J.13 (prohibition on assignment or charging of benefits) shall not apply to an assignment by personal representatives under this regulation.”.

### **Amendment of regulation 2.E.25**

**39.** In regulation 2.E.25(5) (dual capacity membership: death benefits), after sub-paragraph (h) insert—

“(hh) regulation 2.E.20A (pension payable when member dies on or after reaching age 75),”.

### **Amendment of regulation 2.F.6**

**40.** In regulation 2.F.6 (calculating amounts of transfer value payments), for paragraphs (1) and (2) substitute—

“(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the Secretary of State in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(7).

This is subject to paragraphs (2), (3) and (5).

(2) Before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, the Secretary of State shall take advice from the Scheme actuary.”.

### **Amendment of regulation 2.F.8**

**41.** In regulation 2.F.8 (right to apply for acceptance of transfer value payment from another scheme)—

(a) in paragraph (2)(a), after “scheme” insert “other than a corresponding health service scheme”;

(b) for paragraph (2)(d) substitute—

“(d) a corresponding 1995 scheme, and

(e) a corresponding 2008 scheme.”;

(c) after paragraph (2) insert—

“(2A) a member who makes an application for a transfer value to be accepted by the Secretary of State in respect of his rights under a corresponding 2008 scheme may not also make an application for a transfer value to be accepted in respect of his rights under a corresponding 1995 scheme.”;

(d) in paragraph (4)(a)(ii), for “purposes of that Act” substitute “purposes of the 2004 Act”.

### **Amendment of regulation 2.F.9**

**42.** In regulation 2.F.9 (procedure for applications under regulation 2.F.8)—

(a) in paragraph (1)(d)(ii), after “those arrangements” insert “(including a transfer of rights from a corresponding 1995 scheme)”;

(b) in paragraph (2), for “a such a” substitute “such a”;

(c) after paragraph (2) insert—

“(3) A statement given to the member of a corresponding 1995 scheme in pursuance of such a request as is mentioned in paragraph (1)(d) must inform the member of the amount of pensionable service that will count under this Scheme for the purposes of—

(a) calculating benefits payable to or in respect of the member, and



- (b) determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 2.A.3.”.

#### **Amendment of regulation 2.F.10**

- 43.** In regulation 2.F.10 (acceptance of transfer value payments), after paragraph (3) insert—
- “(3A) If the Secretary of State accepts the payment from the member of a corresponding 1995 scheme, the relevant period of pensionable service shall count when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 2.A.3.
- (3B) In paragraph (3A) “the relevant period” means the period calculated in accordance with regulation 2.F.11.”.

#### **Amendment of regulation 2.F.11**

- 44.** In regulation 2.F.11 (calculation of transferred-in pensionable service)—
- (a) in paragraph (6), for “corresponding health service scheme” substitute “corresponding 2008 scheme”;
  - (b) omit paragraph (7).

#### **Insertion of new regulation 2.F.17**

- 45.** After regulation 2.F.16 (EU and other overseas transfers), insert—

#### *“Transfers across*

#### **Transfers across from the NHS Pension Scheme 1995**

**2.F.17.—**(1) An active member who is entitled to have a cash equivalent value calculated in respect of the entirety of the member’s rights under the NHS Pension Scheme 1995, pursuant to regulation M7 of the 1995 Regulations, may apply to convert that cash equivalent value into rights under this Scheme.

- (2) An application under paragraph (1)—
  - (a) must be made in writing using an application form provided for the purpose by the Secretary of State,
  - (b) may only be made before the end of the period of three months beginning with the guarantee date established under regulation M7 of the 1995 Regulations,
  - (c) may only be made if the member has first been furnished with a statement of the pensionable service that the member will be entitled to count under this Scheme if the application is accepted by the Secretary of State,
  - (d) must meet such other conditions as the Secretary of State may require, and
  - (e) is irrevocable.
- (3) The statement mentioned in paragraph (2)(c) must—
  - (a) inform the member of the amount of pensionable service that will count under this Scheme for the purposes of calculating benefits payable to or in respect of the member,

- (b) inform the member of the amount of pensionable service that will count under this Scheme when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 2.A.3, and
- (c) be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose.
- (4) If the Secretary of State accepts an application under paragraph (1)—
  - (a) the member is entitled to count under this Scheme the periods of pensionable service mentioned in paragraphs (3)(a) and (b) for the purposes specified therein, and
  - (b) those periods of pensionable service shall be credited to the member on the day that the Secretary of State received the member's application.”

#### **Amendment of regulation 2.H.2**

**46.** For regulation 2.H.2 (information), substitute—

- “(1) A person who becomes an employed pensioner must—
  - (a) inform the person's employer in the new employment and any other person that the Secretary of State may specify that the old service pension is payable, and
  - (b) where requested, provide any information about their relevant income in the new employment to the Secretary of State or to any other person that the Secretary of State may specify.
- (2) A person who ceases to be an employed pensioner in one new employment and becomes an employed pensioner in another new employment must—
  - (a) inform the person's employer in the other new employment, and any other person that the Secretary of State may specify, that the old service pension is payable, and
  - (b) where requested, provide any information about their relevant income in the other new employment to the Secretary of State or to any person that the Secretary of State may specify.
- (3) For the meaning of “relevant income” see regulation 2.H.4.”

#### **Amendment of regulation 2.H.5**

**47.** In regulation 2.H.5(1) (meaning of “previous pay”: general), for “regulation 2.H.6” substitute “regulations 2.H.6 and 2.H.7”.

#### **Amendment of regulation 2.H.7**

**48.** In regulation 2.H.7 (application of this Chapter to part-time employment), for paragraph (2) substitute—

- “(2) The amount of the employed pensioner's reckonable pay for the purposes of the old service pension, as referred to in regulation 2.H.5(1)(a), shall be determined without reference to regulation 2.A.13 or 2.A.14 (reckonable pay for concurrent and non-concurrent part-time workers).”

#### **Amendment of regulation 2.J.2**

**49.** For regulation 2.J.2 (claims for benefits), substitute—

- “(1) A person claiming to be entitled to benefits under this Part (“the claimant”) shall make a claim in writing to the Secretary of State.

(2) Pursuant to such a claim, the claimant and, where appropriate, the member's employing authority (including any previous employing authority of the member) shall provide such—

- (a) evidence of entitlement,
- (b) information required in order to deal with the claim, and
- (c) authority or permission as may be necessary for the release by third parties of information in their possession relating to the claimant or member,

as the Secretary of State may from time to time require for the purposes of this Part.

(3) A claim referred to in paragraph (1) may be made by a person or persons other than the claimant where the Secretary of State so provides.

(4) Any claim for benefit required in writing under this Part, and any evidence, information, authority or permission given in connection with that claim, may be made or given by means of an electronic communication where such method of communication is approved by the Secretary of State from time to time.

(5) In this regulation, “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(8).”.

#### **Amendment of regulation 2.J.7**

**50.** In regulation 2.J.7(5)(c) (forfeiture of rights to benefits)—

- (a) after “2.E.21(3)” insert “or (10)”;
- (b) for “lup sum” substitute “lump sum or pension”.

#### **Amendment of regulation 2.J.9**

**51.** In regulation 2.J.9(5) (interest on late payment of benefits and refunds of contributions)—

- (a) in sub-paragraph (b), after “member's death” insert “, other than a pension payable under regulation 2.E.20A (pension payable when member dies on or after reaching age 75)”;
- (b) after sub-paragraph (e) insert—
  - “(f) in the case of an amount in respect of a pension under regulation 2.E.20A that is payable to—
    - (i) the member's personal representatives, the date on which probate or letters of administration were produced to the Secretary of State,
    - (ii) any person or body to whom the pension has been assigned by the member's personal representatives, the date on which the notice under regulation 2.E.21(10) was received by the Secretary of State, and
    - (iii) any person or body other than those referred to in (i) and (ii), the day immediately following the day of the member's death.”.

#### **Amendment of regulation 2.J.11**

**52.** In regulation 2.J.11 (determinations by medical practitioners)—

- (a) in paragraph (2)—
  - (i) omit “or impairment”;
  - (ii) after paragraph (2)(c) insert—

“(cc) regulation 2.D.15(1) (option for members in serious ill-health to exchange whole pension for lump sum),”;

(b) after paragraph (2) insert—

“(3) In relation to decisions within paragraph (2), the Secretary of State may require any person entitled, or claiming to be entitled, to a benefit under this Part to submit to a medical examination by a registered medical practitioner selected by the Secretary of State, and in that event, the Secretary of State shall also offer the person an opportunity of submitting a report from the person’s own medical adviser as a result of an examination by that medical adviser, and the Secretary of State shall take that report into consideration together with the report of the medical practitioner selected by the Secretary of State.”.

#### **Amendment of regulation 2.J.14**

**53.** In regulation 2.J.14 (employing authority record keeping and contribution estimates)—

- (a) in the heading to that regulation, after “employing authority” insert “and certain member”; and
- (b) in paragraph (1), for “the host” substitute “each relevant host”.

#### **Amendment of regulation 3.A.1**

**54.—**(1) Regulation 3.A.1 (interpretation of Part 3: general) is amended as follows.

(2) In regulation 3.A.1—

- (a) in the definition of “APMS contract” and “APMS contractor”, for “80(2)(b)” substitute “83(2)(b)”;
- (b) before the definition of “corresponding health service scheme” insert—
 

““corresponding 1995 scheme” means a corresponding health service scheme the provisions of which the Secretary of State has determined correspond to the provisions of the 1995 Regulations;

“corresponding 2008 scheme” means a corresponding health service scheme the provisions of which the Secretary of State has determined correspond to the provisions of these Regulations;”;
- (c) for the definition of “corresponding health service scheme” substitute—
 

““corresponding health service scheme” means—

  - (a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972<sup>(9)</sup> and having effect in Scotland,
  - (b) a superannuation scheme provided under Article 12 of the Superannuation (Northern Ireland) Order 1972<sup>(10)</sup>,
  - (c) a scheme made under section 2 of the Superannuation Act 1984<sup>(11)</sup> (an Act of Tynwald) applies, and
  - (d) any other occupational pension scheme approved for the purposes of this regulation by the Secretary of State;”;
- (d) after the definition of “GDS contractor” insert—
 

““general ophthalmic services” means—

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<sup>(9)</sup> 1972 c.11.

<sup>(10)</sup> S.I. 1972/1073.

<sup>(11)</sup> 1984 c.8 (Tynwald).

- (a) as regards England, mandatory services and additional services as defined in regulation 2(1) of the General Ophthalmic Services Contracts Regulations 2008<sup>(12)</sup>, and
  - (b) as regards Wales, general ophthalmic services within the meaning of section 71(10) of the 2006 Wales Act<sup>(13)</sup>;
- (e) after the definition of “GMS practice” insert—

““GOS contract” means a contract under section 117 of the 2006 Act (general ophthalmic services contracts) for the provision of mandatory services and additional services as defined in regulation 2(1) of the General Ophthalmic Services Contracts Regulations 2008<sup>(12)</sup>;
- (f) for the definition of “host Trust or Board” substitute—

““host Trust or Board”, in respect of a person who is a registered medical practitioner or non-GP provider who is—

  - (a) a partner in a partnership—
    - (i) that is a GMS practice; or
    - (ii) 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;
  - (b) 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;
  - (c) an individual who is a GMS practice, PMS practice or an APMS contractor, means each Primary Care Trust or Local Health Board with which that partnership (in the case of (a)), company (in the case of (b)) or practice or contractor (in the case of (c)) has entered into an agreement or contract referred to in those provisions and (in the case of a registered medical practitioner) the relevant Trust or Board on whose medical performers’ list that practitioner’s name appears, and such a person shall be deemed to be employed by the appropriate Trust or Board for the purposes of this Part<sup>(13)</sup>;
- (g) in the definition of “OOH services”—
  - (i) after “GMS practice” insert “, APMS contractor”;
  - (ii) after “to whom the practice” insert “or contractor”; and
  - (iii) after “GMS contract” insert “, APMS contract”;
- (h) after the definition of “OOH services”, insert—

““ophthalmic provider” means a registered medical practitioner who is included in an ophthalmic list kept and published by a Primary Care Trust or Local Health Board pursuant to regulation 6(1) of the National Health Service (General Ophthalmic Services) Regulations 1986<sup>(13)</sup> (ophthalmic list);”;
- (i) for the newly inserted definition of “ophthalmic provider”, substitute—

““ophthalmic provider” means a registered medical practitioner who—

  - (a) as regards England—

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<sup>(12)</sup> S.I. 2008/1185.

<sup>(13)</sup> S.I.1986/975.

- (i) is included in an ophthalmic performers list prepared and published by a Primary Care Trust pursuant to regulation 3(1) of the National Health Service (Performers Lists) Regulations 2004<sup>(14)</sup> (performers lists); and
- (ii) holds a GOS contract; and
- (b) as regards Wales, is included in an ophthalmic list kept and published by a Local Health Board pursuant to regulation 6(1) of the National Health Service (General Ophthalmic Services) Regulations 1986 (ophthalmic list);
- (j) in the definition of “type 1 medical practitioner”, after “means” insert “an ophthalmic provider or”.

### **Amendment of regulation 3.A.3**

**55.** In regulation 3.A.3 (meaning of “pensionable service”), after paragraph (8) insert—

“(9) Where a member is also a member of the NHS Pension Scheme 1995, any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LPS$$

where—

SP is the shorter period, measured in years and days, and

LPS is the length of pensionable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the NHS Pension Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

### **Amendment of regulation 3.A.4**

**56.** In regulation 3.A.4 (pensionable service: breaks in service)—

- (a) in paragraph (2)—
  - (i) for “Subject to paragraph (5), a” substitute “A”;
  - (ii) for “scheme” substitute “Scheme under regulation 3.C.1 in respect of the period of absence”;
- (b) for paragraph (3) substitute—
 

“(3) If a member is on leave of absence but does not fall within paragraph (1)(a) to (e), and contributes to the Scheme under regulation 3.C.1 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

  - (a) where the member contributes for a continuous period of 6 months commencing with the first day of the member’s leave of absence, 6 months, and
  - (b) where the member contributes for a continuous period of less than 6 months commencing with the first day of the member’s leave of absence, the period in respect of which the member pays those contributions.

(3A) If, having paid contributions for the period mentioned in paragraph (3)(a) a member remains on a leave of absence that does not fall within paragraph (1)(a) to (e) and contributes to the Scheme both member contributions under regulation 3.C.1 and employer

contributions under regulation 3.C.3 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), 18 months, and
- (b) where the member contributes for a continuous period of less than 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), the period in respect of which the member pays those contributions.”.

#### **Amendment of regulation 3.A.5**

**57.** In regulation 3.A.5 (meaning of “qualifying service”)—

- (a) in paragraph (1)(b), after “pension arrangement” insert “(including the NHS Pension Scheme 1995)”;
- (b) after paragraph (1)(d) insert—
  - “(e) in the case of a person—
    - (i) who is eligible to join the Scheme by virtue of regulation 3.B.1(5)(c), and
    - (ii) for whom the interval between leaving the NHS Pension Scheme 1995 and joining the Scheme is less than one month,a period equal to the period of qualifying service (within the meaning of the 1995 Regulations), measured in years and days, that the member was entitled to count under regulation C3 of the 1995 Regulations when the member left that scheme.”;
- (c) after paragraph (3) insert—
  - “(4) For the other rules applying where there is a short break in service, see regulation 3.A.6.”.

#### **Amendment of regulation 3.A.7**

**58.** In regulation 3.A.7(2)(a)(vii) (meaning of “pensionable earnings”), after “OOH provider” insert “or other employing authority providing OOH services”.

#### **Amendment of regulation 3.A.8**

**59.** In regulation 3.A.8 (pensionable earnings—breaks in service)—

- (a) in paragraph (2)(a), for “regulation 3.C.1” substitute “regulations 3.C.1 and 3.C.2”;
- (b) in paragraph (8), for “(3)(a) or (4)” substitute “(5)(b) or (7)”;
- (c) after paragraph (9) insert—
  - “(10) For the purposes of making contributions to the Scheme under regulations 3.C.1 and 3.C.3, during any period of absence which counts as pensionable service under regulation 3.A.4(3) or (3A), amounts equal to the rate of the member’s pensionable earnings calculated as described in paragraph (3)(a) or (b) of this regulation will be treated as pensionable earnings.”.

#### **Amendment of regulation 3.B.1**

**60.** In regulation 3.B.1(5) (eligibility: general), for paragraph (e) substitute—

- “(e) the person—
  - (i) ceased to be an active member of the NHS Pension Scheme 1995 on leaving NHS employment,
  - (ii) became a deferred member of that Scheme on leaving that employment and has not become a pensioner member of that Scheme between the date of leaving that employment and joining the Scheme, and
  - (iii) re-entered NHS employment on or after 1st October 2008 and 5 or more years since last leaving NHS employment, or
- (f) the person—
  - (i) ceased to be an active member of the NHS Pension Scheme 1995 before 1st April 2008 on leaving NHS employment,
  - (ii) became a deferred member of that Scheme on leaving that employment,
  - (iii) re-entered NHS employment on or after 1st October 2008 and 5 or more years since last leaving NHS employment, and
  - (iv) before the person re-entered such employment—
    - (aa) a transfer payment was made in respect of the person under Part M of that Scheme, or
    - (bb) the person made an application under regulation M2 of that Scheme (exercising a right to transfer or buy-out) from which the person may not withdraw,

but sub-paragraphs (d) to (f) will not apply if the Secretary of State has permitted such a person to rejoin the NHS Pension Scheme 1995 in the circumstances described in regulation B2(3) of the 1995 Regulations.”.

#### **Amendment of regulation 3.B.2**

**61.** In regulation 3.B.2 (restrictions on eligibility: general), for paragraph (1)(b) substitute—

- “(b) became a pensioner member of that Scheme on or after that date, or
- (c) is a deferred member of that Scheme, but is not a deferred member—
  - (i) to whom regulation 3.B.1(5)(e) or (f) applies, and
  - (ii) in respect of whom permission of the Secretary of State to rejoin the NHS Pension Scheme 1995 has not been granted pursuant to regulation B2(3) of that Scheme.”.

#### **Amendment of regulation 3.B.5**

**62.** In regulation 3.B.5(7) (opting out of the scheme)—

- (a) after “contribute to the scheme” insert “in respect of one or more employments as a practitioner under this Part must do so”; and
- (b) before “may” insert “but”.

#### **Amendment of regulation 3.C.2**

**63.** In regulation 3.C.2 (members’ contribution rate)—

- (a) in paragraph (3), after “may” insert “, with the consent of the Treasury,”;



- (b) in the full-out words of paragraph (8), for “paragraph (6) of this regulation in respect of the earlier service” substitute “paragraph (12) of this regulation in respect of the earlier dentist performer service”;
- (c) in the full-out words of paragraph (9), for “paragraph (6) of this regulation in respect of the earlier service” substitute “regulation 2.C.2 in respect of the earlier officer service”;
- (d) in the full-out words of paragraph (14), for “paragraph (12) of this regulation in respect of the earlier service” substitute “paragraph (6) of this regulation in respect of the earlier service as a practitioner (other than a dentist performer)”.

### **Amendment of regulation 3.C.3**

**64.** In regulation 3.C.3 (contributions by employing authorities: general), for paragraph (2) substitute—

“(2) In specifying such a rate, the Secretary of State must—

- (a) obtain the consent of the Treasury, and
- (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971<sup>(15)</sup> and section 59 of the Social Security Pensions Act 1975<sup>(16)</sup>.”.

### **Amendment of regulation 3.D.6**

**65.** In the heading to regulation 3.D.6 (increase in pensionable earnings following exercise of option under regulation 3.D.5), for “pensionable earnings” substitute “level of engagement”.

### **Amendment of regulation 3.D.8**

**66.** In regulation 3.D.8 (re-assessment of entitlement to an ill-health pension determined under regulation 3.D.7), for paragraph 2(a), substitute—

- “(a) in the case of a member who does not engage in further NHS employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the end of that period,
- (aa) in the case of a member who does engage in further NHS employment during the period of three years referred to in paragraph (1)(b), the member makes the application in writing before the first anniversary of the day on which that employment commences or before the end of that period if sooner.”.

### **Amendment of regulation 3.D.9**

**67.** In regulation 3.D.9 (early retirement on ill-health (deferred members))—

- (a) in paragraph (1)(a), before “incapable” insert “permanently”;
- (b) in paragraph (2)(a)(ii), for “impairment” substitute “infirmary”.

### **Amendment of regulation 3.E.10**

**68.** In regulation 3.E.10(2) (amount of children’s pension under regulation 3.E.8: deceased active members), for “paragraphs (6) and (7)” substitute “paragraphs (5) and (6)”.

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<sup>(15)</sup> 1971 c.56.

<sup>(16)</sup> 1975 c.60.

### Insertion of new regulation 3.E.20A

69. After regulation 3.E.20 (amount of lump sum: pension credit members), insert—

**“Pension payable when member dies on or after reaching age 75**

**3.E.20 A.**—(1) If a pensioner member or a pension credit member dies—

- (a) on or after reaching age 75, and
- (b) before the fifth anniversary of the date on which the member’s pension became payable,

an annual pension, calculated in accordance with paragraph (2), may be payable from the day following the date of the member’s death until the anniversary referred to in sub-paragraph (b).

(2) The pension payable under paragraph (1) is determined by—

- (a) calculating the amount of the lump sum that would have been payable in respect of the pensioner member or pension credit member under regulation 3.E.17(2) or, as the case may be, 3.E.20 as if on the day the member died the member had not reached the age of 75, and
- (b) converting any amount determined in sub-paragraph (a) to an annual pension payable for the period specified in paragraph (1), by reference to guidance and tables provided by the Scheme actuary for the purpose.

(3) The “beginning date” of the pension calculated in paragraph (2) will, for the purposes of the Pensions (Increase) Act 1971, be the day immediately following the date of death of the pensioner member or pension credit member.

(4) The pension calculated under this regulation will be payable in accordance with regulation 3.E.21.”.

### Amendment of regulation 3.E.21

70. In regulation 3.E.21 (payment of lump sums on death)—

- (a) in the heading to that regulation, after “lump sums” insert “or pensions”;
- (b) in paragraph (1), after “regulation 3.E.16” insert “or a pension payable under regulation 3.E.20A”;
- (c) in paragraph (2)—
  - (i) after “lump sum” insert “or pension”, and
  - (ii) for “under paragraph (4) or (6)” substitute “or body under paragraph (4), (6) or (10)”;
- (d) in paragraphs (3), (4) and (6), after “lump sum” in each paragraph insert “or pension”;
- (e) in paragraph (7), after “lump sum” (twice) insert “or pension”;
- (f) after paragraph (9), insert—

“(10) The member’s personal representatives may, as part of the distribution of the member’s estate, give irrevocable notice to the Secretary of State—

(a) specifying—

- (i) one or more individuals, or
- (ii) one incorporated or unincorporated body,

to whom the benefit of the pension under regulation 3.E.20A from the date of receipt of the notice by the Secretary of State is to be assigned, and

(b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,  
and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.

(11) This paragraph applies if—

- (a) the person specified in the notice has died before the payment can be made,
- (b) payment to that person or body is not, in the opinion of the Secretary of State, reasonably practicable, or
- (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation 3.J.7(4) (forfeiture of rights to benefit) and the Secretary of State has directed, as a consequence of that conviction, that the person's right to a payment in respect of the member's death is forfeited.

(12) The prohibition on assignment of benefits in regulation 3.J.13 (prohibition on assignment or charging of benefits) shall not apply to an assignment by personal representatives under this regulation.”.

#### **Amendment of regulation 3.E.25**

**71.** In regulation 3.E.25(5) (dual capacity membership: death benefits), after sub-paragraph (h) insert—

“(hh) regulation 3.E.20A (pension payable when member dies on or after reaching age 75).”.

#### **Amendment of regulation 3.F.6**

**72.** In regulation 3.F.6 (calculating amounts of transfer value payments), for paragraphs (1) and (2) substitute—

“(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated and verified by the Secretary of State in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996<sup>(17)</sup>.

This is subject to paragraphs (2), (3) and (5).

(2) Before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, the Secretary of State shall take advice from the Scheme actuary.”.

#### **Amendment of regulation 3.F.8**

**73.** In regulation 3.F.8 (right to apply for acceptance of transfer value payment from another scheme)—

- (a) in paragraph (2)(a), after “scheme” insert “other than a corresponding health service scheme”;
- (b) for paragraph (2)(d) substitute—
  - “(d) a corresponding 1995 scheme, and
  - (e) a corresponding 2008 scheme.”;
- (c) after paragraph (2) insert—

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<sup>(17)</sup> S.I. 1996/1847.

“(2A) a member who makes an application for a transfer value to be accepted by the Secretary of State in respect of his rights under a corresponding 2008 scheme may not also make an application for a transfer value to be accepted in respect of his rights under a corresponding 1995 scheme.”;

(d) in paragraph (4)(a)(ii), for “purposes of that Act” substitute “purposes of the 2004 Act”.

#### **Amendment of regulation 3.F.9**

**74.** In regulation 3.F.9 (procedure for applications under regulation 3.F.8)—

(a) in paragraph (1)(d)(ii), after “those arrangements” insert “(including a transfer of rights from a corresponding 1995 scheme)”;

(b) after paragraph (2) insert—

“(3) A statement given to the member of a corresponding 1995 scheme in pursuance of such a request as is mentioned in paragraph (1)(d) must inform the member of the amount of pensionable service that will count under this Scheme for the purposes of—

(a) calculating benefits payable to or in respect of the member, and

(b) determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 3.A.3.”.

#### **Amendment of regulation 3.F.10**

**75.** In regulation 3.F.10 (acceptance of transfer value payments), after paragraph (3) insert—

“(3A) If the Secretary of State accepts the payment from the member of a corresponding 1995 scheme, the relevant period of pensionable service shall count when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 3.A.3.

(3B) In paragraph (3A) “the relevant period” means the period calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose, having regard to the period of employment that qualified the member for the rights in the corresponding 1995 scheme.”.

#### **Amendment of regulation 3.F.11**

**76.** In regulation 3.F.11 (calculation of transferred-in pensionable service)—

(a) for paragraph (2) substitute—

“(2) Subject to paragraph (4), for the purposes of the calculation under paragraph (1), the benefits in respect of the transfer payment will be calculated by increasing the member’s pensionable earnings for—

(a) the financial year in which the member joined the Scheme; or

(b) the financial year in which the transfer payment is received if the payment is received more than 12 months after the member joined the Scheme.”;

(b) in paragraph (3)(b), for “final year’s pensionable” substitute “reckonable”;

(c) in paragraph (3)(c), for “final year’s pensionable” substitute “reckonable”;

(d) in paragraph (4), for “paragraph (3)” substitute “paragraph (2)(b)”;

(e) in paragraph (6), for “corresponding health service scheme” substitute “corresponding 2008 scheme”; and

(f) omit paragraph (7).

## Insertion of new regulation 3.F.17

77. After regulation 3.F.16 (EU and other overseas transfers), insert—

### *“Transfers across*

#### **Transfers across from the NHS Pension Scheme 1995**

**3.F.17.**—(1) An active member who is entitled to have a cash equivalent value calculated in respect of the entirety of the member’s rights under the NHS Pension Scheme 1995, pursuant to regulation M7 of the 1995 Regulations, may apply to convert that cash equivalent value into rights under this Scheme.

(2) An application under paragraph (1)—

- (a) must be made in writing using an application form provided for the purpose by the Secretary of State,
- (b) may only be made before the end of the period of three months beginning with the guarantee date established under regulation M7 of the 1995 Regulations,
- (c) may only be made if the member has first been furnished with a statement of the pensionable service and increase in pensionable earnings that the member will be entitled to count under this Scheme if the application is accepted by the Secretary of State,
- (d) must meet such other conditions as the Secretary of State may require, and
- (e) is irrevocable.

(3) The statement mentioned in paragraph (2)(c) must—

- (a) inform the member of the amount of increase in pensionable earnings that will count under this Scheme for the purposes of calculating benefits payable to or in respect of the member, and
- (b) inform the member of the amount of pensionable service that will count under this Scheme when determining whether or not the member has reached 45 years of pensionable service for the purposes of regulation 3.A.3.

(4) The amount of the increase in pensionable earnings mentioned in paragraph (3)(a) will be calculated by—

- (a) treating the member as entitled to a period of officer service equal to the period of employment that qualified the member for the rights in the NHS Pension Scheme 1995,
- (b) calculating the reckonable pay that would have given rise to a cash equivalent in respect of that officer service under regulation 2.F.6 (calculating amounts of transfer value payments), and
- (c) increasing the member’s pensionable earnings by an amount equal to the pensionable pay that the member would have received during that period of officer service if the member’s pensionable pay had been equal to the reckonable pay mentioned in paragraph (b) throughout that period.

(5) The amount of pensionable service mentioned in paragraph (3)(b) will be calculated in accordance with any guidance, tables and other relevant factors provided by the Scheme actuary for that purpose, having regard to the period of employment that qualified the member for the rights in the NHS Pension Scheme 1995.

(6) If the Secretary of State accepts an application under paragraph (1)—

- (a) the member is entitled to count under this Scheme the period of pensionable service mentioned in paragraph (3)(b) for the purpose specified therein,
- (b) that period of pensionable service shall be credited to the member on the day that the Secretary of State received the member's application,
- (c) the member is entitled to count the increase in pensionable earnings calculated under paragraph (4) for the purposes of calculating benefits payable to or in respect of the member under this Scheme, and
- (d) that increase in pensionable earnings shall be credited to the member in the financial year during which the day that the Secretary of State received the member's application falls.”.

### **Amendment of regulation 3.H.2**

**78.** For regulation 3.H.2 (information), substitute—

- “(1) A person who becomes an employed pensioner must—
  - (a) inform the person's employer in the new employment, and any other person that the Secretary of State may specify, that the old service pension is payable, and
  - (b) where requested, provide any information about their relevant income in the new employment to the Secretary of State or to any other person that the Secretary of State may specify.
- (2) A person who ceases to be an employed pensioner in one new employment and becomes an employed pensioner in another new employment must—
  - (a) inform the person's employer in the other new employment, and any other person that the Secretary of State may specify, that the old service pension is payable, and
  - (b) where requested, provide any information about their relevant income in the new employment to the Secretary of State or to any other person that the Secretary of State may specify.
- (3) For the meaning of “relevant income” see regulation 3.H.4.”.

### **Amendment of regulation 3.J.2**

**79.** For regulation 3.J.2 (claims for benefits), substitute—

- “(1) A person claiming to be entitled to benefits under this Part (“the claimant”) shall make a claim in writing to the Secretary of State.
- (2) Pursuant to such a claim, the claimant and, where appropriate, the member's employing authority (including any previous employing authority of the member) shall provide such—
  - (a) evidence of entitlement,
  - (b) information required in order to deal with the claim, and
  - (c) authority or permission as may be necessary for the release by third parties of information in their possession relating to the claimant or member,

as the Secretary of State may from time to time require for the purposes of this Part.

(3) A claim referred to in paragraph (1) may be made by a person or persons other than the claimant where the Secretary of State so provides.

(4) Any claim for benefit required in writing under this Part, and any evidence, information, authority or permission given in connection with that claim, may be made or

given by means of an electronic communication where such method of communication is approved by the Secretary of State from time to time.

(5) In this regulation, “electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000(18).”.

#### **Amendment of regulation 3.J.7**

**80.** In regulation 3.J.7(5)(c) (forfeiture of rights to benefits)—

- (a) after “3.E.21(3)” insert “or (10)”;
- (b) after “lump sum” insert “or pension”.

#### **Amendment of regulation 3.J.9**

**81.** In regulation 3.J.9(5) (interest on late payment of benefits and refunds of contributions)—

- (a) in sub-paragraph (b), after “member’s death” insert “, other than a pension payable under regulation 3.E.20A (pension payable when member dies on or after reaching age 75)”;
- (b) after sub-paragraph (e) insert—
  - “(f) in the case of an amount in respect of a pension under regulation 3.E.20A that is payable to—
    - (i) the member’s personal representatives, the date on which probate or letters of administration were produced to the Secretary of State,
    - (ii) any person or body to whom the pension has been assigned by the member’s personal representatives, the date on which the notice under regulation 3.E.21(10) was received by the Secretary of State, and
    - (iii) any person or body other than those referred to in (i) and (ii), the day immediately following the day of the member’s death.”.

#### **Amendment of regulation 3.J.11**

**82.** In regulation 3.J.11 (determinations by medical practitioners)—

- (a) in paragraph (2)—
  - (i) omit “or impairment”;
  - (ii) after paragraph (2)(c) insert—
    - “(cc) regulation 3.D.11(1) (option for members in serious ill-health to exchange whole pension for lump sum),”;
- (b) after paragraph (2) insert—
  - “(3) In relation to decisions within paragraph (2), the Secretary of State may require any person entitled, or claiming to be entitled, to a benefit under this Part to submit to a medical examination by a registered medical practitioner selected by the Secretary of State, and in that event, the Secretary of State shall also offer the person an opportunity of submitting a report from the person’s own medical adviser as a result of an examination by that medical adviser, and the Secretary of State shall take that report into consideration together with the report of the medical practitioner selected by the Secretary of State.”.

#### **Amendment of regulation 3.J.14**

**83.** For regulation 3.J.14(1) (employing authority and certain member record keeping and contribution estimates) substitute—

“(1) As regards a member who is a type 1 medical practitioner, in respect of each financial year—

(a) the member shall provide each relevant host Trust or Board with a certificate of their pensionable earnings based on—

(i) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which the member is a member; and

(ii) the return that member has made to Her Majesty’s Revenue & Customs in respect of their earnings for that year,

no later than 1 month from the date on which that return was required to be submitted to Her Majesty’s Revenue & Customs;

(b) a host Trust or Board shall forward to the Secretary of State a copy of the records maintained under regulation 3.C.5(17)(b) within 1 month of the end of the financial year immediately following the financial year to which the return in paragraph (1)(a)(ii) relates.”.

#### **Amendment of regulation 4.A.2**

**84.** In regulation 4.A.2 (interpretation: general), for the definition of “type 1 practitioner” substitute—

““type 1 practitioner” has the same meaning as in Part 3;”.

#### **Amendment of regulation 4.D.1**

**85.** In regulation 4.D.1 (pensionable service limit), after paragraph (4) insert—

“(5) Where a member is also a member of the NHS Pension Scheme 1995, any reference in this Part to “45 years” shall be taken to be a reference to a shorter period determined by the formula—

$$SP = 45 \text{ years} - LPS$$

where—

SP is the shorter period, measured in years and days, and

LPS is the length of pensionable service (within the meaning of the 1995 Regulations), measured in years and days, giving rise to membership of the NHS Pension Scheme 1995 and, in the case of a member of that Scheme who has become entitled to a pension (including a preserved pension) under that Scheme, including any period that was taken into account for the purpose of determining whether the member was entitled to that pension, or for the purpose of calculating the amount of that pension.”.

#### **Amendment of regulation 4.D.2**

**86.** In regulation 4.D.2 (applications, claims and notices), for the table substitute—

<i>“Column 1</i>	<i>Column 2</i>
<i>Regulation in Part 2</i>	<i>Regulation in Part 3</i>
2.D.1	3.D.1



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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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<i>“Column 1</i>	<i>Column 2</i>
<i>Regulation in Part 2</i>	<i>Regulation in Part 3</i>
2.D.8	3.D.7
2.D.10	3.D.9
2.D.14	3.D.10
2.D.15	3.D.11
2.D.18	3.D.14
2.E.2	3.E.2
2.E.21	3.E.21
2.F.2	3.F.2
2.F.3	3.F.3”