
STATUTORY INSTRUMENTS

2008 No. 2263

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

PART 1

Amendment of the National Health Service Pension Scheme Regulations 1995

Amendment of regulation S4

16.—(1) Regulation S4 (benefits on death in pensionable employment after pension under regulation E2 becomes payable) is amended as follows.

(2) In paragraph (1A)—

(i) for “This regulation”, substitute “Subject to the modifications set out in paragraph (1B), this regulation”;

(ii) in sub-paragraph (b)(iii), after “members)” insert “on or before 1st April 2008”.

(3) After paragraph (1A), insert—

“(1B) The modifications referred to in paragraph (1A) are—

(a) in paragraph (3A), for “on the date of the member’s death” substitute “on the member’s last day of pensionable employment”;

(b) in paragraph (7), for “pensionable pay when he died” substitute “final year’s pensionable pay”;

(c) in paragraph (8), for “the 6 months immediately following the member’s death” substitute “the 3 months immediately following the member’s death or the 6 months immediately following the member’s death if he leaves a dependent child”;

(d) in paragraph (11), for “the 6 month period” substitute “the 3 month or, as the case may be, the 6 month period”;

(e) in paragraph (12)—

(i) for “rate of pensionable pay when he died” substitute “final year’s pensionable pay”, and

(ii) for “at that time” substitute “when he died”.

(1C) Subject to the modifications set out in paragraph (1D), this regulation shall also apply to a member in respect of whom a pension is payable under regulation E2 (early retirement on grounds of ill-health) who—

(a) returns to pensionable employment after that pension becomes payable, and

(b) on the day the member dies, the member is—

(i) under the age of 75,

(ii) in NHS employment,

- (iii) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members) on, or after, 2nd April 2008, and
 - (iv) except where regulation R4(6) applies, not in receipt of a pension under any of regulations E1 to E5 in respect of the member's later service.
- (1D) The modifications referred to in paragraph (1C) are—
- (a) in paragraph (3A), for “on the date of the member's death” substitute “on the member's last day of pensionable employment”;
 - (b) in paragraph (7), for “pensionable pay when he died” substitute “final year's pensionable pay”;
 - (c) in paragraph (12)—
 - (i) for “rate of pensionable pay when he died” substitute “final year's pensionable pay”, and
 - (ii) for “at that time” substitute “when he died”.