
STATUTORY INSTRUMENTS

2010 No. 1634

**The National Health Service Pension
Scheme (Amendment) Regulations 2010**

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

Part 3: General

8. The National Health Service Pension Scheme Regulations 2008⁽¹⁾ are amended in accordance with this Part.

Amendment of regulation 1.B.1

9.—(1) Regulation 1.B.1 (actuarial reports and accounts) is amended as follows.

(2) At the end of paragraph (4), add (as full out words), “This is subject to paragraph (5).”.

(3) After paragraph (4), add—

“(5) The actuarial report referred to in paragraph (4) shall be based on actuarial assumptions determined by the Secretary of State following the consent of the Treasury.

(6) Before determining the assumptions referred to in paragraph (5) the Secretary of State may consult—

- (a) such representatives of employees and employing authorities as appear to the Secretary of State to be appropriate, and
- (b) the Scheme Actuary.”.

Substitution of regulation 2.C.1

10. For regulation 2.C.1 (contributions by members), substitute—

“2.C.1 Contributions by members

(1) Each active member must make contributions to this Section of the Scheme (“member contributions”) in respect of—

- (a) the member’s pensionable pay in accordance with regulation 2.C.2 where the member is not a non-GP provider;
- (b) the member’s pensionable earnings in accordance with regulation 2.C.4 where the member is a non-GP provider.

(2) Member contributions must be made—

- (a) until the member completes 45 years’ pensionable service, or

(b) where the notice required by regulation 2.A.2(3) has been properly received, until the member ceases officer service.

(3) In the case of a member who is not a non-GP provider, the member's employing authority must deduct member contributions from the member's pensionable pay and pay them to the Secretary of State not later than the 19th day of the month following the month in which the pay was paid to the member.

(4) In the case of a member who is a non-GP provider, the host Trust or Board must pay to the Secretary of State contributions under this regulation paid to it by the non-GP provider or paid to it by another employing authority not later than the 19th day of the month following the month in which the earnings were paid to the non-GP provider.

(5) Paragraph (6) applies where a member has failed to pay member contributions or an employing authority has failed to deduct such contributions in accordance with this regulation.

(6) The Secretary of State may recover any sum that remains due in respect of contributions referred to in paragraph (5) by deduction from any payment by way of benefits to, or in respect of, the member if—

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

(7) Paragraph (6) is without prejudice to any other method of recovery the Secretary of State may have.

(8) A member who is absent from service in circumstances within regulation 2.A.4(1) to (3), may make contributions to this Section of the Scheme in respect of the member's pensionable pay or, as the case may be, pensionable earnings in accordance with that regulation and whichever of regulations 2.C.2 or 2.C.4 applies to that member.

(9) If, apart from this paragraph, the pay or, as the case may be, earnings for a scheme year in respect of a member's service would not be a whole number of pounds, that pay or, as the case may be, those earnings must be rounded down to the nearest whole pound."

Substitution of regulation 2.C.2

11. For regulation 2.C.2 (members' contribution rate), substitute—

“Contribution rate for members other than non-GP providers

2.C.2.—(1) Contributions under regulation 2.C.1(1)(a) must be paid at the member's contribution rate for the scheme year in question.

(2) A member's contribution rate is the percentage specified in column 2 of the relevant table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member's pensionable pay falls.

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable pay bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable pay bands or contribution percentage rates, the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.

(5) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2010-2011 scheme year, table 1 where paragraph (2) of regulation 2.C.3 applies and table 2 if paragraph (16), (17) or (21) of that regulation applies;
- (b) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i> <i>Pensionable Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i> <i>Pensionable Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.”

Amendment of regulation 2.C.3

12.—(1) Regulation 2.C.3 (employees) is amended as follows.

(2) For the heading, substitute “2.C.3 Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers”.

(3) In paragraphs (4) to (17) and (21), for “the table in paragraph (2)” substitute “the relevant table in paragraph (5)”.

(4) In paragraph (26), for “the 2008-2009 scheme year” substitute “the current scheme year”.

Substitution of regulation 2.C.4

13. For regulation 2.C.4 (non-GP providers), substitute—

“Contribution rate and determination of pensionable earnings for non-GP providers

2.C.4.—(1) Member contributions payable by a non-GP provider under regulation 2.C.1(1)(b) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (15) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings fall.

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.

(5) Paragraph (6) applies where, in respect of a scheme year, a non-GP provider—

- (a) has certified their pensionable earnings in accordance with regulation 2.J.14 and forwarded a record of those earnings to the host Trust or Board, or
- (b) was not required to certify their earnings in accordance with that regulation but the host Trust or Board has the figure that represents the non-GP provider's pensionable earnings for that scheme year.

(6) In the circumstances referred to in paragraph (5), contributions payable for the scheme year in question shall be those specified in column 2 of the relevant table in paragraph (15) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to—

- (a) the certified or final pensionable earnings from all non GP provider sources, and
- (b) any additional pensionable earnings the non-GP provider is treated as having received during a break in service in accordance with regulation 2.A.9.

(7) If paragraph (5) does not apply to a non-GP provider in respect of a scheme year, that non-GP provider shall pay contributions at the rate in column 2 of the relevant table in paragraph (15), on the basis of whichever of the following the host Trust or Board considers the most appropriate in the circumstances—

- (a) an amount of the non-GP provider's earnings that has been agreed between the host Trust or Board on the one hand and the non-GP provider on the other hand;
- (b) an amount of the non-GP provider's earnings that corresponds to that non-GP provider's most recent certified or final pensionable earnings referred to in paragraph (5); or
- (c) an amount of such earnings that corresponds to the host Trust or Board's estimate of that non-GP provider's pensionable earnings from all non-GP provider sources for that year.

This is subject to paragraph (8).

(8) If paragraph (7) applies to a non-GP provider in respect of a scheme year and paragraph (5)(a) or (b) is subsequently satisfied in respect of that scheme year, that non-GP provider shall pay contributions at the rate determined in accordance with paragraph (6).

(9) A host Trust or Board may adjust a non-GP provider's contribution rate for any scheme year determined in accordance with paragraph (7)—

- (a) by agreement between the host Trust or Board on the one hand and the non-GP provider on the other hand, or
- (b) without such agreement, if the host Trust or Board is satisfied that pensionable earnings of the non-GP provider will exceed the amount used to determine the contribution rate in accordance with that paragraph.

(10) If a member is in non-GP provider service and concurrently in practitioner service in respect of which the member is liable to pay contributions in accordance with regulation 3.C.1, contributions payable in respect of the member's non-GP provider service shall be determined under this regulation and contributions payable in respect of the member's practitioner service shall be determined under regulation 3.C.2.

(11) In determining member contributions payable in accordance with this regulation, a host Trust or Board must take account of pensionable earnings from all non-GP provider sources, including any pensionable earnings as a non-GP provider determined by another host Trust or Board.

(12) An employing authority that is not a host Trust or Board shall, in respect of any pensionable earnings it pays to a non-GP provider, take advice from any relevant host Trust or Board in determining the contributions payable in accordance with this regulation.

(13) Where paragraph (14) does not apply, a non-GP provider shall pay member contributions to the host Trust or Board.

(14) If 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 must—

- (a) deduct contributions due under this regulation from any pensionable earnings it pays to that person, and
- (b) if it is not also the host Trust or Board, pay those contributions to that Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

(15) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.”

Substitution of regulation 2.C.5

14. For regulation 2.C.5 (contributions by employing authorities: general), substitute—

“Contributions by employing authorities: general

2.C.5.—(1) The employing authority of a member who is an active member of this Section of the Scheme under this Part must contribute to the scheme, in respect of the pensionable pay, or as the case may be, pensionable earnings of that member, at the rate determined by the Secretary of State and specified in paragraph (4) (“the employer’s standard rate”).

(2) In specifying the employer’s standard 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 this Section of the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975(2).

(3) If for any period a person holds more than one employment (whether under a contract of service or for services) with an employing authority in respect of which the person is an active member of the Scheme, this regulation and regulation 2.C.6 apply in respect of each of those employments as if it were the only employment held.

(4) The employer’s standard rate is 14.0%.

(5) 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;
 - (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;
- (c) the last employing authority of a person to whom these Regulations apply.

(6) If 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 employer’s standard rate contributions to the host Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

This is subject to paragraph (7).

(7) If a non-GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (6), each employing authority must pay employer’s standard rate contributions on any pensionable earnings it pays to the non-GP provider or, as the case may be, on the non-GP provider’s share of the partnership profits, to the host Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

(8) If paragraph (14) of regulation 2.C.4 applies (but paragraph (6) of this regulation does not) and the employing authority referred to in regulation 2.C.4(14)—

- (a) is not the host Trust or Board, that authority must pay employer’s standard rate contributions under this regulation to the host Trust or Board 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 Trust or Board must pay employer’s standard rate contributions under this regulation to the Secretary of State in respect of any pensionable earnings it pays to the non-GP provider.
- (9) Not later than the 19th day of the month following the month in which pensionable pay or, as the case may be, pensionable earnings are paid to a member, the employer’s standard rate contributions under this regulation must be paid to the Secretary of State—
- (a) in the case of a member other than a non-GP provider, by that member’s employing authority,
 - (b) in the case of a non-GP provider, by the host Trust or Board.”.

Amendment of regulation 3.C.1

15. In paragraph (1) of regulation 3.C.1 (contributions by members), after “Scheme” insert “(“member contributions”)”.

Amendment of regulation 3.C.2

16.—(1) Regulation 3.C.2 (members’ contribution rate) is amended as follows.

(2) For paragraphs (1) to (4), substitute—

“(1) Contributions under regulation 3.C.1(1) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (17) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings fall.

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.”.

(3) In paragraphs (5), (6), (8) and (9), for “the table in paragraph (2)” substitute “the relevant table in paragraph (17)”.

(4) After paragraph (16), add—

“(17) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%

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

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%.”

Amendment of regulation 3.C.3

17.—(1) Regulation 3.C.3 (contributions by employing authorities: general) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable earnings of each person who is an active member of the scheme in an employment with the authority, at the rate determined by the Secretary of State and specified in paragraph (5) (“the employer’s standard rate”).”.

(3) For paragraph (5), substitute—

“(5) The employer’s standard rate is 14.0%.”.