

**2015 No. 96**

**NATIONAL HEALTH SERVICE, ENGLAND AND  
WALES**

**The National Health Service Pension Scheme, Injury Benefits  
and Additional Voluntary Contributions (Amendment)  
Regulations 2015**

*Made* - - - - - *5th February 2015*

*Laid before Parliament* *12th February 2015*

*Coming into force in accordance with regulation 1*

The Secretary of State for Health, with the consent of the Treasury, makes the following Regulations in exercise of the powers conferred by sections 10(1) and (2) and 12(1), (2) and (4) of, and Schedule 3 to, the Superannuation Act 1972(a).

In accordance with section 10(4) of the Superannuation Act 1972 the Secretary of State has consulted with representatives of persons likely to be affected by these Regulations, as appeared to the Secretary of State to be appropriate.

**PART 1**

**Introductory**

**Citation, commencement and effect**

**1.**—(1) These Regulations may be cited as the National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2015.

(2) These Regulations come into force on 1st April 2015 and, save as provided for in paragraphs (3) to (7), have effect from that date.

(3) Regulations 4 and 20 have effect from 1st April 2014.

(4) Regulation 10 has effect from 5th December 2005.

(5) Regulations 14 and 18 have effect from 6th April 2014.

(6) Regulations 21 and 40 have effect from 1st October 2008.

(7) Regulation 30 has effect from 1st April 2008.

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(a) 1972 c. 11. Section 10(1) was amended by sections 57 and 58 of, and Schedule 5 to, the National Health Service Reorganisation Act 1973 (c. 32) and section 4(2) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) (“the 1990 Act”). Section 12(2) was amended by section 10(1) of the 1990 Act. As to Treasury consent, 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).

## PART 2

### Amendment of the National Health Service Pension Scheme Regulations 1995

#### General

2. The National Health Service Pension Scheme Regulations 1995(a) are amended in accordance with regulations 3 to 16.

#### Amendment of regulation A2

3.—(1) Regulation A2 (interpretation) is amended as follows.

(2) At the appropriate place in the alphabetical order insert—

““the 2013 Act” means the Public Service Pensions Act 2013(b);

“the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme Regulations 2015(c);

“additional contribution option” means an option in the terms and conditions of a member’s employment that entitles the member to make an additional contribution towards the cost of paying a pension under regulation E3A if the lump sum payment otherwise payable to the member in accordance with those terms and conditions is insufficient to meet the cost of that pension in full;”.

(3) For the definition of “registered medical practitioner”(d), substitute—

““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(e);”.

#### Amendment of regulation C1

4. In sub-paragraph (a) of paragraph (1) of regulation C1 (meaning of “pensionable pay” and “final year’s pensionable pay”)(f), after “bonuses,” insert “pay awards and pay increases that are expressed by the Secretary of State to be non-consolidated,”.

#### Amendment of regulation D1

5.—(1) Regulation D1 (contributions by members) is amended as follows.

(2) For paragraph (1A)(g), substitute—

“(1A) A member’s contribution rate for each of the scheme years 2015-2016 to 2018-2019 inclusive is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

#### Table:

#### Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%

(a) S.I. 1995/300.

(b) 2013 c. 25.

(c) S.I. 2015/94.

(d) The definition of “registered medical practitioner” was previously inserted by regulation 4 of S.I. 2010/492.

(e) 1983 c. 54.

(f) Paragraph (1) was substituted by regulation 5 of S.I. 2005/661.

(g) Paragraph (1A) was substituted by regulation 6 of S.I. 2014/570.

£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

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(3) Omit paragraph (1B)(a).

(4) In paragraph (2)(b), for “the tables set out in this regulation” substitute “the table in paragraph (1A)”.

(5) In paragraphs (2Q), (2R) and (2V)(c), for “paragraph (1B)” substitute “paragraph (1A)”.

## **New Regulation D1A**

6. After regulation D1 (contributions by members), insert—

### **“Members’ contributions: redundancy**

**D1A.**—(1) This regulation applies if—

- (a) a member’s employment is terminated by reason of redundancy,
- (b) the member becomes entitled to payment of a pension under regulation E3A where regulation E3AB applies,
- (c) an additional contribution option applies to that member, and
- (d) unless that member pays an additional contribution as mentioned in paragraph (2), the amount of the member’s pension would be reduced pursuant to paragraphs (5) to (10) of regulation E3AB.

(2) The member may pay such additional contribution as the Secretary of State (having regard to the advice of the Scheme Actuary) determines will be sufficient to meet the cost of the pension insofar as that cost is not met by the contribution paid by the member’s employing authority under regulation D2(3A).

(3) For the purposes of paragraph (2), the Secretary of State must provide the member’s employing authority with such information as will enable the employing authority to notify the member as to the effect that paying contributions of any particular amount would have on the amount of the pension payable to the member.

(4) The amount of the additional contribution payable pursuant to paragraph (2) must be—

- (a) not less than £500 (or such other figure as the Secretary of State thinks appropriate);
- (b) a whole number of pounds divisible by £10.

(5) For the purposes of paragraph (4)—

- (a) if the insufficiency mentioned in paragraph (7)(b) of regulation E3AB is less than £500, sub-paragraph (a) is ignored;
- (b) if it is necessary to do so to comply with sub-paragraph (b), the figure must be rounded down to the nearest whole number of pounds divisible by £10.

(6) If the member decides to pay an additional contribution, the amount of the contribution must be paid to the member’s employing authority in sufficient time to enable the authority to remit the payment to the Secretary of State at the same time as the authority pays the contribution it is required to pay pursuant to regulation D2(3A).”.

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(a) The last relevant amending instrument is S.I. 2014/570 (reg.6).

(b) The relevant amending instruments are S.I. 2010/1634 (reg.2) and S.I. 2013/1414 (reg.2).

(c) The last relevant amending instrument in respect of paragraphs (2Q), (2R) and (2V) was S.I. 2012/610 (regs.2 and 4).

## **Amendment of regulation D2**

7.—(1) Regulation D2 (contributions by employing authorities) is amended as follows.

(2) In paragraph (2), for “14 per cent” substitute “14.3%”.

(3) In paragraph (3), after “employment by employing authority))” insert “in circumstances where regulation E3AB does not apply”.

(4) After paragraph (3), insert—

“(3A) Where, on leaving pensionable employment, a pension becomes payable to a member under regulation E3A in circumstances where regulation E3AB applies, in addition to the contributions payable under paragraph (1), the employing authority must make a single lump sum contribution to the Secretary of State of the relevant amount not less than one month before the pension becomes payable.

(3B) The relevant amount is whichever is the lesser of—

- (a) the amount the Secretary of State determines, having regard to the advice of the Scheme Actuary, is required to meet the cost of the pension under regulation E3A and the lump sum under regulation E6 in circumstances where regulation E3AB applies; and
- (b) the amount the employing authority would otherwise be required to pay to the member in consequence of the member’s redundancy.”.

## **Amendment of regulation E3A**

8.—(1) Regulation E3A (early retirement pension (termination of employment by employing authority)) is amended as follows.

(2) After sub-paragraph (ca)(a) of paragraph (2), insert—

“(cb) where sub-paragraph (b)(ii) applies, the member’s employing authority states whether an additional contribution option applies to the member;”.

(3) In paragraph (4), after “E1” insert “: this is subject to paragraph (4A)”.

(4) After paragraph (4), insert—

“(4A) A member who satisfies the conditions in paragraph (2) is not entitled to a pension under this regulation if the Secretary of State, after consultation with the Scheme Actuary, decides that the amount of the pension would be less than the amount of the guaranteed minimum pension to which the member is entitled.”.

## **New regulation E3AB**

9. After regulation E3A (early retirement pension (termination of employment by employing authority)), insert—

### **“Early retirement pension: additional contribution option**

**E3AB.**—(1) This regulation applies to a member who satisfies the conditions in regulation E3A and has an additional contribution option.

(2) Where this regulation applies the payment of the member’s pension under regulation E3A does not commence until the member’s employing authority has—

- (a) remitted to the Secretary of State the member’s contribution paid to it pursuant to regulation D1A(6); and at the same time,
- (b) paid the contribution under regulation D2(3A).

(3) Sub-paragraph (a) of paragraph (2) does not apply if—

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(a) Sub-paragraph (ca) was inserted by regulation 9 of S.I. 2014/570.

- (a) the member has chosen not to pay a contribution as mentioned in regulation D1A, and
  - (b) the employing authority gives confirmation of that in writing to the Secretary of State.
- (4) Paragraph (5) applies if—
- (a) the member has received a payment referred to in regulation E3A(5)(a),
  - (b) the terms and conditions of the employment require the payment to be reduced to take account of any contribution the employing authority is required to make to the Secretary of State pursuant to regulation D2, and
  - (c) the payment has not been reduced.
- (5) The amount of the payment (or all such payments) is deducted from the amount of the pension otherwise payable pursuant to regulation E3A.
- (6) Paragraph (7) applies both where the member has exercised an additional contribution option and where the member has not.
- (7) Paragraph (8) applies if—
- (a) the reason for the termination of the member’s employment is redundancy, and
  - (b) the contribution paid by the employing authority under regulation D2 is insufficient to meet the cost of the pension payable pursuant to regulation E3A.
- (8) The amount of the pension is reduced by the appropriate amount.
- (9) The appropriate amount is the amount determined by the Secretary of State as being necessary to ensure that the cost does not exceed the payment unless and to the extent that a contribution paid by the member under regulation D1A makes up the deficiency.
- (10) The cost referred to in paragraph (9) is the amount which the Secretary of State determines is necessary to buy out the cost of the actuarial reduction that would apply if the pension and lump sum on retirement were calculated pursuant to regulations E5 and E6.
- (11) In determining the appropriate amount referred to in paragraph (8) and the amount referred to in paragraph (10), the Secretary of State must have regard to the advice of the Scheme Actuary.
- (12) The cost of the actuarial reduction referred to in paragraph (10) does not include the cost of early payment of an additional pension under regulation Q8 or Q10.”.

**Amendment of regulation G1**

**10.** For paragraphs (4) and (5) of regulation G1 (widows pension), substitute—

- “(4) If the Secretary of State is satisfied that the widow will otherwise suffer severe financial hardship, the Secretary of State may pay a pension to a widow who—
- (a) has remarried,
  - (b) has formed a civil partnership,
  - (c) is living together as husband and wife with a man to whom the widow is not married,
  - (d) is living together as if in a civil partnership with a woman who is not the widow’s civil partner.
- (5) If the Secretary of State is satisfied that the widow will otherwise suffer hardship, the Secretary of State may pay a pension to a widow who has—
- (a) remarried and that later marriage has come to an end,
  - (b) formed a civil partnership which has come to an end.”.

**Amendment of regulation M1**

**11.—**(1) Regulation M1 (member’s right to transfer or buy-out) is amended as follows.

(2) In paragraph (8), before sub-paragraph (a) insert—

“(za) a member may require the cash equivalent to be used to acquire rights in one or more of the ways permitted under section 101AE of the 1993 Act;”.

### **Amendment of regulation M7**

**12.** In sub-paragraph (c) of paragraph (3) of regulation M7 (member’s right to transfer a preserved pension to the 2008 Section)(a), after “Section” insert “ on or before 31st March 2015 and”.

### **New regulation M8**

**13.** After regulation M7, insert—

#### **“Member’s right to transfer a preserved pension to the 2015 Scheme**

**M8.**—(1) An active member of the 2015 Scheme, who meets both condition A and one of either condition B or condition C, may require the Secretary of State to use the cash equivalent of the member’s rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is entitled to a deferred benefit under regulation L1,
- (b) has not been a member of the 2008 Section, and
- (c) became an active member of the 2015 Scheme before attaining the age of 60.

(3) Condition B is that the member has had a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable employment in respect of which that person is entitled to the pension referred to in paragraph (2)(a), and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(c).

(4) Condition C is that the member—

- (a) has had a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in pensionable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Secretary of State must provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(7) In this regulation “the guarantee date” means any date that falls within the required period and is—

- (a) chosen by the Secretary of State,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

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(a) The relevant amending instrument S.I. 2009/2446 (reg.10).

(9) In paragraph (7), “the required period” means—

- (a) the period of three months beginning with the date that the Secretary of State receives notification from the member’s employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Secretary of State, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member’s guaranteed cash equivalent shall be equal to the capitalised value of all of the member’s rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971(a).

(11) The Secretary of State shall—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(b).

(12) Except in the case of a transfer payment accepted under regulation N3A, a member’s cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation N1(4), plus the amount of the member’s contributions to this Section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Secretary of State for the cash equivalent of the member’s rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Secretary of State;
- (b) to be made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) a member becomes entitled to be credited with an increase to the member’s pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member’s benefits under this Section of the scheme calculated in accordance with regulation 145 of the 2015 Scheme, and
- (b) the member’s rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member’s pensionable earnings and a period of pensionable service in accordance with regulation 145 of the 2015 Scheme.

(16) A member’s right to require the Secretary of State to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.”.

### **Amendment of regulation T2A**

**14.**—(1) Regulation T2A (deduction of tax: further provisions)(c) is amended as follows.

(2) After paragraph (8A)(d), add—

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(a) 1971 c. 56.  
(b) S.I. 1996/1847.  
(c) Regulation T2A was inserted by regulation 18 of S.I. 2006/600.  
(d) Paragraph (8A) was inserted by regulations 2 and 7 of S.I. 2012/610 and amended by regulation 12 of S.I. 2014/570.

“(8B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014(a), that person must give to the scheme administrator—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014(b) in respect of that entitlement, and
  - (b) the information referred to in paragraph (7).”.
- (3) In paragraph (9)(c), for “paragraph (8) or (8A)” substitute “paragraph (8), (8A) or (8B)”.
- (4) In paragraph (10)(d), for “paragraph (8) or (8A)” substitute “paragraph (8), (8A) or (8B)”.

## Amendment of Schedule 2

15.—(1) Schedule 2 (medical and dental practitioners) is amended as follows.

(2) For sub-paragraph (1A) of paragraph 10 (contributions to this Section of the scheme)(e), substitute—

“(1A) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2014-2015 scheme year, table 1;
- (b) in respect of the 2015-2016 to 2018-2019 scheme years, table 2.

**Table 1:**

### Scheme Year 2014-2015

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

**Table 2:**

### Scheme Years 2015-2016 to 2018-2019

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(3) In sub-paragraph (2N)—

- (a) 2014 c. 26.
- (b) S.I. 2014/1842.
- (c) Paragraph (9) was amended by regulation 12 of S.I. 2014/570.
- (d) Paragraph (10) was amended by regulation 12 of S.I. 2014/570.
- (e) Paragraph (1A) was substituted by regulation 16 of S.I. 2014/570.



- (a) omit “that member has”;
- (b) in paragraph (a), before “in accordance with” insert “that member has”.

### **Amendment of Schedule 2B**

**16.** For the heading to Schedule 2B (independent providers)(a) for “(2B)” substitute “2B”.

## **PART 3**

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

#### **General**

**17.** The National Health Service Pension Scheme Regulations 2008(b) are amended in accordance with regulations 18 to 46.

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

**18.** After paragraph (3A) of regulation 1.B.3 (provision of information relevant for tax purposes)(c), insert—

“(3B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 6 to the Finance Act 2014, that person must give to the scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Individual Protection 2014 Notification) Regulations 2014 in respect of that entitlement.”.

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

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

(2) In paragraph (1), at the appropriate place in the alphabetical order insert—

““the 2013 Act” means the Public Service Pensions Act 2013(d);

“the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme Regulations 2015(e);

“additional contribution option” means an option in the terms and conditions of a member’s employment that entitles the member to make an additional contribution towards the cost of paying a pension under regulation 2.D.11 if the lump sum payment otherwise payable to the member in accordance with those terms and conditions is insufficient to meet the cost of that pension in full;”.

(3) In paragraph (2) for the definition of “registered medical practitioner”(f), substitute—

““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(g);”.

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(a) Schedule 2B was inserted by regulation 17 of S.I. 2014/570.

(b) S.I. 2008/653.

(c) Paragraph (3A) was inserted by regulation 9 of S.I. 2012/610: the last relevant amending instrument is S.I. 2014/570 (reg.19).

(d) 2015 c. 25.

(e) S.I. 2015/94.

(f) The definition of “registered medical practitioner” was inserted by regulation 17 of S.I. 2010/492.

(g) 1983 c. 54.

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

**20.** After sub-paragraph (a) of paragraph (3) of regulation 2.A.8 (meaning of “pensionable pay”), insert—

“(aa) pay awards and pay increases that are expressed by the Secretary of State to be non-consolidated.”.

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

**21.** In sub-paragraph (b) of paragraph (2) of regulation 2.B.2 (restrictions on eligibility: general), after “person” insert “or that person became an active member of this Section of the Scheme before reaching normal benefit age for the purposes of the 1995 Section”.

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

**22.—**(1) Regulation 2.C.2 (contribution rate for members other than non-GP providers)(a) is amended as follows.

(2) For paragraph (2), substitute—

“(2) A member’s contribution rate for each of the scheme years 2015-2016 to 2018-2019 inclusive is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

**Table:**

**Scheme Years 2015-2016 to 2018-2019**

<i>Column 1</i> <i>Pensionable Pay Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(3) Omit paragraph (2A).

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

**23.** In paragraphs (16), (17) and (21) of regulation 2.C.3 (determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers)(b), for “paragraph (2A)” substitute “paragraph (2)”.

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

**24.** For paragraph (20) of regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers)(c), substitute—

“(20) For the purposes of this paragraph, the “relevant table” means—  
in respect of the 2014-2015 scheme year, table 1;  
in respect of the 2015-2016 to 2018-2019 scheme years, table 2.

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(a) Regulation 2.C.2(2) was substituted by regulation 6 of S.I. 2013/1414.

(b) In respect of paragraphs (16), (17) and (21), the last relevant amending instrument is S.I. 2013/1414 (regs.5 and 7).

(c) Paragraphs (5) to (20) were substituted by regulation 26 of S.I. 2014/570.

**Table 1**  
**Scheme Year 2014-2015**

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

**Table 2:**  
**Scheme Years 2015-2016 to 2018-2019**

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

#### **New Regulation 2.C.4A**

25. After regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers), insert—

##### **“2.C.4A Members’ contributions: redundancy**

(1) This regulation applies if—

- (a) a member’s employment is terminated by reason of redundancy,
- (b) the member become entitled to payment of a pension under regulation 2.D.11 where regulation 2.D.11A applies,
- (c) an additional contribution option applies to that member, and
- (d) unless that member pays an additional contribution as mentioned in paragraph (2), the amount of the member’s pension would be reduced pursuant to paragraphs (5) to (10) of regulation 2.D.11A.

(2) The member may pay such additional contribution as the Secretary of State (having regard to the advice of the Scheme actuary) determines will be sufficient to meet the cost of the pension insofar as that cost is not met by the contribution paid by the member’s employing authority under regulation 2.C.6(2A).

(3) For the purposes of paragraph (2), the Secretary of State must provide the member’s employing authority with such information as will enable the employing authority to notify the member as to the effect that paying contributions of any particular amount would have on the amount of the pension payable to the member.

(4) The amount of the additional contribution payable pursuant to paragraph (2) must be—

- (a) not less than £500 (or such other figure as the Secretary of State thinks appropriate);

(b) a whole number of pounds divisible by £10.

(5) For the purposes of paragraph (4)—

(a) if the insufficiency mentioned in paragraph (7)(b) of regulation 2.D.11A is less than £500, sub-paragraph (a) is ignored;

(b) if it is necessary to do so to comply with sub-paragraph (b), the figure must be rounded down to the nearest whole number of pounds divisible by £10.

(6) If the member decides to pay an additional contribution, the amount of the contribution must be paid to the member's employing authority in sufficient time to enable the authority to remit the payment to the Secretary of State at the same time as the authority pays the contribution it is required to pay pursuant to regulation 2.C.6(2A)."

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

**26.** In paragraph (4) of regulation 2.C.5 (contributions by employing authorities: general), for "14.0%" substitute "14.3%".

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

**27.**—(1) Regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11) is amended as follows.

(2) In paragraph (1), after "employment by employing authority)" insert "in circumstances where regulation 2.D.11A does not apply".

(3) After paragraph (2), insert—

"(2A) Where, on leaving pensionable employment, a pension becomes payable to a member under regulation 2.D.11 in circumstances where regulation 2.D.11A applies, the employing authority must make a single lump sum contribution to the Secretary of State of the relevant amount not less than one month before the pension becomes payable.

(2B) The relevant amount is whichever is the lesser of—

(a) the amount the Secretary of State determines, having regard to the advice of the Scheme actuary, is required to meet the cost of the pension under regulation 2.D.11 and any lump sum under regulation 2.K.12 in circumstances where regulation 2.D.11A applies; and

(b) the amount the employing authority would otherwise be required to pay to the member in consequence of the member's redundancy."

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

**28.**—(1) Regulation 2.D.11 (early retirement on termination of employment by employing authority) is amended as follows.

(2) After sub-paragraph (b) of paragraph (1), insert—

"(ba) where sub-paragraph (c)(ii) applies, the member's employing authority states whether an additional contribution option applies to the member,".

(3) In paragraph (3), after "to it" insert "": this is subject to paragraph (3A)".

(4) After paragraph (3), insert—

"(3A) A member who satisfies the conditions of this regulation is not entitled to a pension under this regulation if the Secretary of State, after consultation with the Scheme actuary, decides that the amount of the pension would be less than the amount of the guaranteed minimum pension to which the member is entitled."

## **New regulation 2.D.11A**

**29.** After regulation 2.D.11 (early retirement on termination of employment by employing authority), insert—

### **“2.D.11A Early retirement on termination of employment by employing authority: additional contribution option**

(1) This regulation applies to a member who satisfies the conditions in regulation 2.D.11 and has an additional contribution option.

(2) Where this regulation applies the payment of the member’s pension under regulation 2.D.11 does not start until the employing authority has—

- (a) remitted to the Secretary of State the member’s contribution paid to it pursuant to regulation 2.C.4A(6); and at the same time,
- (b) paid the contribution under regulation 2.C.6(2A).

(3) Sub-paragraph (a) of paragraph (2) does not apply if—

- (a) the member has chosen not to pay a contribution as mentioned in regulation 2.C.4A, and
- (b) the employing authority gives confirmation of that in writing to the Secretary of State.

(4) Paragraph (5) applies if—

- (a) the member has received payment referred to in regulation 2.D.11(6)(a),
- (b) the terms and conditions of the employment require the payment to be reduced to take account of any contribution the employing authority is required to make to the Secretary of State pursuant to regulation 2.C.6, and
- (c) the payment has not been reduced.

(5) The amount of the payment (or all such payments) is deducted from the amount of the pension otherwise payable pursuant to regulation 2.D.11.

(6) Paragraph (7) applies both where the member has exercised an additional contribution option and where the member has not.

(7) Paragraph (8) applies if—

- (a) the reason for the termination of the member’s employment is redundancy, and
- (b) the contribution paid by the employing authority under regulation 2.C.6 is insufficient to meet the cost of the pension payable pursuant to regulation 2.D.11.

(8) The amount of the pension is reduced by the appropriate amount.

(9) The appropriate amount is the amount determined by the Secretary of State as being necessary to ensure that the cost does not exceed payment unless and to the extent that a contribution paid by the member under regulation 2.C.4A makes up the deficiency.

(10) The cost referred to in paragraph (9) is the amount which the Secretary of State determines is necessary to buy out the cost of the actuarial reduction that would apply if the pension and the lump sum (if any) were calculated pursuant to regulations 2.D.4 and 2.K.12.

(11) In determining the appropriate amount referred to in paragraph (8) and the amount referred to in paragraph (10), the Secretary of State must have regard to the advice of the Scheme actuary.

(12) The cost of the actuarial reduction referred to in paragraph (10) does not include the cost of early payment of an additional pension under regulation 2.C.8, 2.C.10 or 2.C.11.”

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

30. In paragraph (2) of regulation 2.E.5 (amount of pensions under regulation 2.E.1: deferred members), omit “whose” to “last day of pensionable service” (inclusive).

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

31. In sub-paragraph (a) of paragraph (3)(a) of regulation 2.F.1 (Introduction: rights to transfer value payment), for “section 93(1)(a)” substitute “section 93”.

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

32. In paragraph (6) of regulation 2.F.4 (applications for transfer value payments: time limits), for “does not fall within regulation 2.D.1(2)” substitute “falls within regulation 2.F.1(4)”.

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

33.—(1) Regulation 2.F.5 (ways in which transfer value payments may be applied) is amended as follows.

(2) In paragraph (1), for “A member” substitute “If Chapter 4 of Part 4 of the 1993 Act applies to a member, that member”

(3) For paragraph (2), substitute—

“(2) In any other case, a member may only require the Secretary of State to apply the guaranteed equivalent transfer value payment in one or more of the ways permitted under section 101AE of the 1993 Act.”.

### **New regulation 2.F.18**

34. After regulation 2.F.17 (transfers across from the 1995 Section), insert—

#### **“2.F.18 Right to transfer a deferred pension to the 2015 Scheme**

(1) An active member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Secretary of State to use the cash equivalent of the member’s rights under this Section of the Scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

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(a) Paragraph (3) was amended by regulation 103 of S.I. 2009/2446.

(5) For the purposes of paragraphs (3) and (4) any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Secretary of State shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").

(7) In this regulation "the guarantee date" means any date that falls within the required period and is—

- (a) chosen by the Secretary of State,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- (a) the period of three months beginning with the date that the Secretary of State receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Secretary of State, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971(a).

(11) The Secretary of State must—

- (a) take advice from the Scheme actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(b).

(12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 2.F.10, plus the amount of the member's contributions to this Section of the Scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Secretary of State for the cash equivalent of the member's rights under this Section of the Scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Secretary of State;
- (b) to be made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in

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(a) 1971 c. 56.

(b) S.I. 1996/1847.

respect of the cash equivalent value of the member's benefits under this Section of the Scheme calculated in accordance with regulation 145 of the 2015 Scheme , and

- (b) the member's rights under this Section of the Scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings and a period of pensionable service in accordance with regulation 145 of the 2015 Scheme.

(16) A member's right to require the Secretary of State to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”.

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

35. In paragraph (10) of regulation 2.M.3 (approval applications)(a), for “11” substitute “(11)”.

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

36. In paragraph (6) of regulation 2.M.4 (change from open approval to closed approval basis)(b), for “sub-paragraph” substitute “paragraph”.

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

37. In paragraph (3) of regulation 2.M.6 (75% pensionable pay threshold and contribution surcharge)(c), for “sub-paragraph” substitute “paragraph”.

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

38. In paragraph (3) of regulation 2.M.7 (default notices)(d), for “sub-paragraph” substitute “paragraph”.

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

39. In paragraph (1) of regulation 3.A.1 (interpretation of Part 3: general) —

- (a) at the appropriate place in the alphabetical order insert—

““the 2013 Act” means the Public Service Pensions Act 2013(e);

“the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme Regulations 2015;”(f);

- (b) for the definition of “registered medical practitioner”, substitute—

““registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(g);”.

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

40. In sub-paragraph (b) of paragraph (1) of regulation 3.B.2 (restrictions on eligibility: general) after “person” insert “or that person became an active member of this Section of the Scheme before reaching normal benefit age for the purposes of the 1995 Section”.

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(a) Regulation 2.M.3 was inserted by regulation 35 of S.I. 2014/570.

(b) Regulation 2.M.4 was inserted by regulation 35 of S.I. 2014/570.

(c) Regulation 2.M.6 was inserted by regulation 35 of S.I. 2014/570.

(d) Regulation 2.M.7 was inserted by regulation 35 of S.I. 2014/570.

(e) 2013 c. 25.

(f) S.I. 2015/94.

(g) 1983 c. 54.



### Amendment of regulation 3.C.2

41.—(1) Regulation 3.C.2 (members' contribution rate)(a) is amended as follows.

(2) In paragraph (14)—

(a) omit “that member has”;

(b) in sub-paragraph (a), before “in accordance” insert “that member has”.

(3) For paragraph (22), substitute —

“(22) For the purposes of this paragraph, the “relevant table” means—

(a) in respect of the 2014-2015 scheme year, table 1;

(b) in respect of the 2015-2016 to 2018-2019 scheme years, table 2.

**Table 1**

**Scheme Year 2014-2015**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%

**Table 2:**

**Scheme Years 2015-2016 to 2018-2019**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,431	5%
£15,432 to £21,477	5.6%
£21,478 to £26,823	7.1%
£26,824 to £47,845	9.3%
£47,846 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

### Amendment of regulation 3.C.3

42. In paragraph (5) of regulation 3.C.3 (contributions by employing authorities: general), for “14.0%” substitute “14.3%”.

### Amendment of regulation 3.F.1

43. In sub-paragraph (a) of paragraph (3) of regulation 3.F.1 (introduction: rights to transfer value payment), for “section 93(1)(a)” substitute “section 93”.

### Amendment of regulation 3.F.4

44. In paragraph (6) of regulation 3.F.4 (applications for transfer value payments: time limits), for “does not fall within regulation 3.D.1(2)” substitute “falls within regulation 3.F.1(4)”.

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(a) Regulation 3.C.2 was last amended by regulation 42 of S.I. 2014/570.

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

**45.**—(1) Regulation 3.F.5 (ways in which transfer value payments may be applied) is amended as follows.

(2) In paragraph (1), for “A member” substitute “If Chapter 4 of Part 4 of the 1993 Act applies to a member, that member”

(3) For paragraph (2), substitute—

“(2) In any other case, a member may only require the Secretary of State to apply the guaranteed equivalent transfer value payment in one or more of the ways permitted under section 101AE of the 1993 Act.”.

### **New regulation 3.F.18**

**46.** After regulation 3.F.17 (transfers across from the 1995 Section), insert—

#### **“3.F.18 Right to transfer a deferred pension to the 2015 Scheme**

(1) An active member of the 2015 Scheme who meets both condition A and one of either condition B or condition C, may require the Secretary of State to use the cash equivalent of the member’s rights under this Section of the Scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Secretary of State shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(7) In this regulation “the guarantee date” means any date that falls within the required period and is—

- (a) chosen by the Secretary of State,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(9) In paragraph (7), “the required period” means—

- (a) the period of three months beginning with the date that the Secretary of State receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
  - (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Secretary of State, the requisite information cannot be obtained to calculate the amount of the cash equivalent.
- (10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971<sup>(a)</sup>.
- (11) The Secretary of State shall—
- (a) take advice from the Scheme actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
  - (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996<sup>(b)</sup>.
- (12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 3.F.10 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this Section of the Scheme.
- (13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Secretary of State for the cash equivalent of the member's rights under this Section of the Scheme to be used to acquire rights under the 2015 Scheme.
- (14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—
- (a) to be made in writing on the form provided for this purpose by the Secretary of State;
  - (b) to be made before the end of the period of three months beginning with the guarantee date;
  - (c) irrevocable.
- (15) On the making of such an application—
- (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this Section of the Scheme calculated in accordance with regulation 145 of the 2015 Scheme, and
  - (b) the member's rights under this Section of the Scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings and a period of pensionable service in accordance with regulation 145 of the 2015 Scheme.
- (16) A member's right to require the Secretary of State to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”.

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(a) 1971 c. 56.  
(b) S.I. 1996/1847.

## PART 4

### Amendment of the National Health Service (Injury Benefits) Regulations 1995

#### General

47. The National Health Service (Injury Benefits) Regulations 1995(a) are amended in accordance with regulations 48 to 52.

#### Amendment of regulation 2

48.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) after the definition of “the 2008 Regulations” insert—  
““the 2015 Regulations” means the National Health Service Pension Scheme Regulations 2015;”(b);
- (b) omit the definition of “average remuneration”;
- (c) for the definition of “NHS employment”, substitute—  
““NHS employment” has the same meaning as in the 1995 Regulations, the 2008 Regulations and the 2015 Regulations as the case may be;”;
- (d) in the definition of “the Scheme”(c), for “and the 2008 Regulations” substitute “, the 2008 Regulations and the 2015 Regulations”.

#### Amendment of regulation 2A

49. After paragraph (2) of regulation 2A (meaning of “practitioner”)(d), add—

“(3) In these Regulations, in relation to a person who is eligible to be a member of the Scheme set out in the 2015 Regulations, “practitioner” means those persons referred to in Parts 2 and 3 (medical contractors, dental contractors and independent providers and medical practitioners and dental practitioners) of Schedule 5 (membership gateways) to the 2015 Regulations except—

- (a) a locum practitioner;
- (b) a non-GP provider;
- (c) an independent provider.”.

#### New regulation 2C

50. After regulation 2B (civil partnerships and marriage of same sex couples), insert—

##### “Meaning of “average remuneration”

2C.—(1) In these Regulations, “average remuneration” means—

- (a) in relation to a practitioner to whom the 1995 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with paragraph 11(2) of Schedule 2 to those Regulations;

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(a) S.I. 1995/866.

(b) S.I. 2015/94.

(c) The definition of “the Scheme” was last substituted by regulation 3 of S.I. 2008/655.

(d) regulation 2A was inserted by regulation 3 of S.I. 2008/655.

- (b) in relation to a practitioner to whom the 2008 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner's uprated earnings in accordance with regulation 3.D.1(4)(b) of those Regulations;
- (c) in relation to a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person's yearly average earnings;
- (d) in relation to a person other than a practitioner to whom the 1995 Regulations apply, such amount as would be or would have been that person's final year's pensionable pay under regulation C1(6) of those Regulations, (assuming, in the case of a person to whom regulation 3(1)(c) applies, that the person was in receipt of the pensionable pay which would, in the opinion of the Secretary of State, have been payable if the person were employed whole-time by an employing authority on similar duties);
- (e) in relation to a person other than a practitioner to whom the 2008 Regulations apply, such amount as would be or would have been that person's reckonable pay under regulation 2.A.10 of those Regulations;
- (f) in relation to a person other than a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person's yearly average earnings.

(2) The yearly average, final year's pensionable pay and reckonable pay referred to in paragraph (1) are to be calculated as if the person to whom regulation 3(1) applies had retired—

- (a) in the case of a person eligible for an allowance under regulation 4(3A) or (3D), on the date on which that person ceased to be employed as a person to whom regulation 3(1) applies;
- (b) in the case of a person eligible for an allowance under regulation 4(4), (4B), (5) or (5C), on the date on which that person's emoluments were reduced;
- (c) in the case of any other person, on the date on which by reason of the injury or disease that person's employment ceased.

This is subject to paragraphs (3) and (4).

(3) This paragraph applies to a person to whom regulation 3(1)(a) applies who was employed as a senior registrar, registrar, specialist registrar, senior house officer or house officer immediately before—

- (a) ceasing to be employed by reason of the injury or disease or as a person to whom that regulation applies; or
- (b) the date on which that person's emoluments were reduced.

(4) In the case of a person to whom paragraph (3) applies, average remuneration shall be increased to the amount which in the opinion of the Secretary of State represents the average remuneration of a general medical practitioner or, as the case may be, a general dental practitioner.

(5) In the case of a person to whom the 2015 Regulations apply and who is a practitioner, that person's yearly average earnings are the greater of—

- (a) the optimum re-valued pensionable earnings in that person's NHS employment; and
- (b) the annual rate of pay for that employment at the time it ceased.

(6) In the case of a person to whom the 2015 Regulations apply and who is a practitioner, that person's yearly average earnings are the average of the annual amounts that would be, or would have been, the person's re-valued pensionable earnings in respect of practitioner service or service which is treated as practitioner service.

(7) The optimum re-valued pensionable earnings is the re-valued pensionable earnings for the scheme year in the earnings reference period for which the person has the greatest amount of re-valued pensionable earnings.

- (8) The annual rate of pay is the sum of—
- (a) the annual rate of so much of what was or would have been the person’s pensionable earnings immediately before any pension became or would have become payable as consisted of salary, wages, or other regular payments of a fixed nature, and
  - (b) so much of any fees and other regular payments not of a fixed nature as—
    - (i) was payable to the person during the period of 12 months ending with the day the employment ceased, and
    - (ii) formed, or would have formed, part of the person’s pensionable earnings.”.

#### **Amendment of regulation 4**

**51.**—(1) Regulation 4 (scale of benefits) is amended as follows.

(2) In sub-paragraph (a) of paragraph (6)—

(a) for paragraph (i), substitute—

“(i) reduction in the amount of that pension under regulation T5 or T6 of the 1995 Regulations, regulation 2.J.6, 2.J.7, 3.J.6 or 3.J.7 of the 2008 Regulations or paragraphs 11 or 12 of Schedule 3 to the 2015 Regulations (all of which deal with offset and loss of rights to benefits);”;

(b) for paragraph (ii), substitute—

“(ii) reduction in the amount of that pension under regulation E2A(7), E7 or L1(5) of the 1995 Regulations, regulation 2.D.14, 2.D.15, 3.D.10 or 3.D.11 of the 2008 Regulations or regulation 77 or 109 of the 2015 Regulations (all of which deal with exchanging a pension for a lump sum including in cases of serious ill health);”;

(c) for paragraph (iv), substitute—

“(iv) reduction in the amount of that pension under paragraph (14)(b) of regulation T2A of the 1995 Regulations, paragraph (10)(b) of regulations 2.J.8 or 3.J.8 of the 2008 Regulations or paragraph 16 of Schedule 3 to the 2015 Regulations (all of which deal with the deduction of tax);”.

(3) After sub-paragraph (b) of paragraph (10)(a), add—

“(c) in respect of a person who is or is eligible to be a member of the scheme set out in the 2015 Regulations,—

- (i) the person’s state pension age, or
- (ii) 65, if that is higher.”.

#### **Amendment of regulation 8**

**52.** In paragraph (6)(b) of regulation 8 (child’s allowance), for “or the 2008 Regulations” substitute “, the 2008 Regulations or the 2015 Regulations”.

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(a) Sub-paragraph (c) was inserted by regulation 3 of S.I. 2008/655.

(b) Paragraph (6) was substituted by regulation 3 of S.I. 2008/655.

## PART 5

### Amendment of the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000

#### General

**53.** The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(a) are amended in accordance with regulations 54 to 65.

#### Amendment of regulation 2

**54.**—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “the 2008 Regulations” insert—

““the 2009 Regulations” means the Registered Pension Schemes (Authorised Payments) Regulations 2009(b);

“the 2014 Act” means the Taxation of Pensions Act 2014(c);

“the 2015 Regulations” means the National Health Service Pension Scheme Regulations 2015;”(d);

(b) in the definition of “child”(e)—

(i) at the end of paragraph (a), omit “or”;

(ii) at the end of paragraph (b), add—

“or

(c) a child’s pension under regulation 121 of the 2015 Regulations;”;

(c) in the definition of “date of retirement”(f)—

(i) at the end of paragraph (a), omit “or”,

(ii) at the end of paragraph (b), add—

“(c) regulations 73, 79, 81, 82, 84, 90 and 94 of the 2015 Regulations; or

(d) in the case of a benefit referred to in regulation 11(1)(d), a commencement date that the participator requests and that is on, or after, the participator’s normal minimum pension age: for these purposes, normal minimum pension age has the meaning given in section 279(1) of the 2004 Act.”;

(d) at the end of paragraph (c)(ii) of the definition of “dependant”(g), add—

“or

(iii) regulation 51 of the 2015 Regulations;”;

(e) in the definition of “NHS Pension Scheme”(h), for “1995 Regulations and the 2008 Regulations” substitute “1995 Regulations, the 2008 Regulations or the 2015 Regulations”;

(f) for the definition of “normal benefit age”, substitute—

““normal benefit age”, in relation to the AVC scheme, means—

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(a) S.I. 2000/619.

(b) S.I. 2009/1171.

(c) 2014 c. 30.

(d) S.I. 2015/94.

(e) The definition of “child” was last substituted by regulation 2 of S.I. 2008/655.

(f) The definition of “date of retirement” was last substituted by regulation 2 of S.I. 2008/655.

(g) The definition of “dependent” was last substituted by regulation 2 of S.I. 2008/655.

(h) The definition of “NHS Pension Scheme” was last substituted by regulation 2 of S.I. 2008/655.

- (a) in the case of a person who was a member of the NHS Pension Scheme governed by the 1995 Regulations at the date that person’s election under regulation 3 took effect, the age of 60;
  - (b) in the case of a person who was a member of the NHS Pension Scheme governed by the 2008 Regulations at the date that person’s election under regulation 3 took effect, the age of 65;
  - (c) in the case of a person who was a member of the NHS Pension Scheme governed by the 2015 Regulations at the date that person’s election under regulation 3 took effect—
    - (i) the person’s state pension age, or if higher,
    - (ii) the age of 65;”;
  - (g) in paragraph (a) of the definition of “participator”, for “11(3)” substitute “11”;
  - (h) in the definition of “pensionable employment”, for “section 7(2) of the Superannuation (Miscellaneous Provisions Act 1967” substitute “section 7 of the Superannuation (Miscellaneous Provisions Act 1967**(a)** or a determination under section 25(5) of the Public Service Pensions Act 2013**(b)**”;
  - (i) after paragraph (b) in the definition of “pensionable service”, add—
    - “(c) regulation 20 of the 2015 Regulations;”;
  - (j) after paragraph (b) in the definition of “retirement”, add—
    - “(c) the 2015 Regulations;”.
- (3) After paragraph (1), insert—
- “(1A) A person is a nominated partner in relation to a contributor if the person and the contributor—
- (a) have jointly made and signed a declaration in such form as the Secretary of State requires,
  - (b) are living together in an exclusive relationship as if they were husband and wife or civil partners,
  - (c) are not prevented from marrying or forming a civil partnership.
- (1B) A person is a surviving nominated partner in relation to a contributor if—
- (a) the person and the contributor jointly made and signed a declaration in such form as the Secretary of State requires that remains effective at the member’s death, and
  - (b) the person satisfies the Secretary of State that for a continuous period of 2 years ending with the member’s death—
    - (i) the person and the member were living together in an exclusive relationship as if they were husband and wife or civil partners,
    - (ii) the person and the member were not prevented from marrying or forming a civil partnership, and
    - (iii) the person was financially dependent on the member or the person and the member were financially interdependent.
- (1C) A declaration for the purposes of paragraph (1A)(a) or (1B)(a) ceases to have effect if—
- (a) it is revoked by the contributor or other person by a signed notice in writing to the Secretary of State in such form as the Secretary of State may require or is willing to accept,
  - (b) the contributor makes a further declaration for the purpose of those paragraphs, or

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(a) 1967 c. 28.  
 (b) 2013 c. 25.



(c) the contributor or the person marries or forms a civil partnership.”.

(4) In paragraph (2)(a), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.

### **Amendment of regulation 3**

**55.**—(1) Regulation 3 (making and acceptance of elections) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a), for “for an annuity or a pension commencement lump sum and an annuity payable on retirement” substitute “one or more of the benefits referred to in regulation 11”;

(b) omit “Paragraph (1)(a) is subject to regulation 11(1A).”.

(3) Omit sub-paragraph (b) of paragraph (3).

(4) After paragraph (6A)(b), insert—

“(6B) A person whose membership of the NHS Pension Scheme is governed by the 2015 Regulations and who is in pensionable employment may, upon attaining normal benefit age—

(a) where contributions have been paid for the purposes of paragraph (1)(b), elect for further contributions to be paid for 12 months beyond the attainment of normal benefit age birthday, and

(b) continue to elect annually for further contributions to be paid provided that person remains in pensionable employment.

(6C) Paragraph (6B) is subject to—

(a) an election referred to in that paragraph being permitted under the arrangement that the person has with an authorised provider;

(b) paragraph (5)(b);

(c) regulation 4(4).”;

(5) In paragraph (7), for “(1) or (6)” substitute “(1), (6), (6A) or (6B)”.

### **Amendment of regulation 4**

**56.**—(1) Regulation 4 (payment and amount of additional voluntary contributions) is amended as follows.

(2) In paragraph (4)(c)—

(a) omit sub-paragraph (a);

(b) in sub-paragraph (b), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.

(3) In the definitions of “employer” and “salary” in paragraph (4A)(d), for “1995 Regulations or the 2008 Regulations” substitute “1995 Regulations, 2008 Regulations or the 2015 Regulations”.

### **Substitution of regulation 6**

**57.** For regulation 6 (circumstances in which elections cease to have effect), substitute—

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(a) Paragraph (2) was last amended by regulation 2 of S.I. 2008/655.

(b) Paragraph (6A) was inserted by regulation 2 of S.I. 2008/655.

(c) Paragraph (4) was substituted by regulation 28 of S.I. 2006/600 and amended by regulation 2 of S.I. 2008/655.

(d) Paragraph (4A) was inserted by regulation 28 of S.I. 2006/600.

### **“Circumstances in which elections cease to have effect**

- 6.**—(1) An election shall cease to have effect where a contributor—
- (a) leaves pensionable employment;
  - (b) ceases to be in pensionable employment by virtue of an election under regulation B4 of the 1995 Regulations, regulation 2.B.5 or 3.B.5 of the 2008 Regulations or regulation 15(2) of the 2015 Regulations (all of which deal with opting-out of the scheme in question) as the case may be; or
  - (c) who, at the time of making the election, was subject to the 1995, 2008 or (as the case may be) 2015 Regulations and who receives payment of all of their benefits under those particular Regulations.

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

(2) A contributor whose election ceases in accordance with paragraph (1)(c) is not prevented from making a further election that complies with regulation 3.

(3) Where a contributor gives written notice to the Secretary of State for the purposes specified in regulation 5(1)(c), an election—

- (a) does not cease to have effect, and
- (b) continues to be subject to the normal benefit age applicable at the time it was made.

This does not apply where sub-paragraphs (a) or (c) of paragraph (1) apply.”.

### **Amendment of regulation 10**

**58.**—(1) Regulation 10 (outward transfers) is amended as follows.

(2) For paragraph (4)(a), substitute—

“(4) If the Secretary of State is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation M1 of the 1995 Regulations (member’s right to transfer or buy-out), the Secretary of State must do so in accordance with the time limit specified in regulation M5 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).

(4A) If the Secretary of State is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 2.F.1 or 3.F.1 of the 2008 Regulations (rights to transfer value payments), the Secretary of State must do so in accordance with the time limit specified in, as the case may be, regulation 2.F.4 or 3.F.4 of those Regulations as if the reference to an application in regulation 2.F.4 (or as the case may be) 3.F.4 were a reference to a notice referred to in paragraph (1).

(4B) If the Secretary of State is required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 134 of the 2015 Regulations (right to transfer value payment), the Secretary of State must do so in accordance with the time limit specified in regulation 137 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).”.

(3) In paragraph (ii) of sub-paragraph (b) of paragraph (8)(b), for “or regulation 2.F.14 or 3.F.14 of the 2008 Regulations” substitute “, regulation 2.F.14 or 3.F.14 of the 2008 Regulations or regulation 147 of the 2015 Regulations”.

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(a) Paragraph (4) was last substituted by regulation 2 of S.I. 2008/655.

(b) Paragraph (8) was last substituted by regulation 2 of S.I. 2008/655.

## Substitution of regulation 11

59. For regulation 11 (retirement and dependants' pensions) substitute—

### “Retirement and dependants' benefits

11.—(1) A participator may apply some or all of the proceeds of an investment made under regulation 7(1), 8(2) or 9(4) to arrange with an insurer for—

- (a) payment of a lifetime annuity;
- (b) payment of a lifetime annuity and a pension commencement lump sum;
- (c) a lump sum commutation payment that—
  - (i) reflects the value of the benefits referred to in paragraph (1)(a) or (b), and
  - (ii) meets the requirements of regulations 11 and 12 of the 2009 Regulations;
- (d) as from 6th April 2015, any payment to the participator or a dependant of the participator, that complies with the requirements of the 2014 Act.

This is subject to paragraphs (10) to (13) and regulation 15(10) and (11).

(2) An authorised provider selected by the Secretary of State, must provide a participator with an option to receive benefits under paragraphs 1(a) to (c).

This is subject to paragraphs (3) and (4).

(3) Any annuity payable in accordance with paragraph (1)(a) or (b) must—

- (a) be incapable, in whole or in part, of surrender, assignment or commutation,
- (b) commence not earlier than the participator's date of retirement for the purposes of, as the case may be, the 1995, 2008 or 2015 Regulations;
- (c) be payable to the participator for life.

(4) Any dependant's pension which is payable in respect of a participator is payable only on the death of the participator after the participator's retirement and is payable to the dependant for life: this is subject to paragraph (6).

(5) A lump sum commutation payment referred to in paragraph (1)(c) may be paid in respect of benefits payable under paragraph (1)(a), (b) or (d).

(6) In the case of a person who is a child to whom—

- (a) Part H of the 1995 Regulations (child allowance) applies;
- (b) regulation 2.E.9 or 3.E.9 of the 2008 Regulations applies (meaning of dependant child), or
- (c) regulation 122 of the 2015 Regulations (eligible child) applies,

a pension referred to in paragraph (4) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(7) An authorised provider selected by the Secretary of State, in addition to providing a participator with the benefits options required under paragraph (2), may from 6th April 2015 provide a participator or a participator's dependant with alternative benefit options under paragraph (1)(d).

(8) A participator must, not earlier than 3 months before the date from which the participator wishes those benefits under these Regulations to be provided, make a benefits election to the Secretary of State specifying—

- (a) whether and which benefits are to be provided under paragraph (2) or, alternatively, paragraph (7),
- (b) the authorised provider who is to provide each benefit,
- (c) for whom, if anyone, a dependant's benefit is to be provided,
- (d) if more than one benefit is to be provided, either—

- (i) the proportion of the amount secured by the total investments made under regulation 7(1), 8(2) or 9(4) that is to be applied to the purchase or arrangement of each of them; or
  - (ii) the dependants' benefits to be provided expressed as a percentage of the participator's benefits,
- (e) in respect of every annuity to be provided—
- (i) the annual rate of the annuity;
  - (ii) whether it is to be payable for life or for any other period;
  - (iii) whether its rate is to be fixed or vary in accordance with the Index or increase yearly by a specified percentage or (if lower) increase by the increase in the Index for the year in question;
  - (iv) as from 6th April 2015, whether the rate may reduce,
- (f) in the case of a participator who chooses a life-time annuity referred to in paragraph (1)(a) or (b) and who dies within the period of 5 years beginning with the date on which the annuity commences, whether, if the annuity had continued at the rate in force at the time of the participator's death, a lump sum is to be paid in accordance with regulation 15(3): the lump sum referred to in this sub-paragraph is a lump sum equal to the balance that would have been payable during the remainder of that period.
- (9) More than one benefits election may be made under paragraph (8) and each such election must—
- (a) be in writing, and
  - (b) contain such information as the Secretary of State requests.
- (10) Upon receipt of a notice of election under paragraph (8), the Secretary of State must, as soon as reasonably practicable, realise the investments made under regulations 7(1), 8(2) or 9(4) and apply the proceeds in the manner specified in it.
- (11) Where a participator dies before retirement or after retirement but before the benefits under this regulation are paid, the investments made under regulation 7(1), 8(2) or 9(4) must be realised and are, subject to any limit imposed by regulation 13, payable as a lump sum in accordance with regulation 15(3).
- (12) The Secretary of State may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of benefits under these Regulations from an insurer in such form as appear to the Secretary of State to be suitable where the conditions in paragraph (13) are satisfied.
- (13) Those conditions are—
- (a) the participator's retirement date falls on or after 1st December 1999; and
  - (b) the participator has attained the age of 75 and has not given a notice of election under paragraph (8) before doing so.
- (14) Paragraph (12) applies notwithstanding that benefits are payable to the participator under—
- (a) Part E or regulation L1 of the 1995 Regulations (benefits for members and preserved pensions);
  - (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
  - (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, premature retirement, partial retirement and ill-health pensions).".

### **Amendment of regulation 13**

**60.** In regulation 13 (benefit limits), after “shall” insert “be”.

### **Amendment of regulation 14**

**61.** In sub-paragraph (b)(a) of paragraph (1) of regulation 14 (repayment of investments in certain cases)—

- (a) at the end of paragraph (i), omit “or”;
- (b) at the end of paragraph (ii), insert—
  - “or
  - (iii) regulation 40 of the 2015 Regulations (eligibility for refund),”.

### **Amendment of regulation 15**

**62.**—(1) Regulation 15 (payments by the Secretary of State) is amended as follows.

(2) For paragraph (1)(b), substitute—

“(1) Where an authorised provider or a selected authorised provider fails to pay a benefit referred to in regulation 11(1) or a lump sum benefit referred to in regulation 12, the Secretary of State is liable to pay that amount.”.

(3) In paragraph (3)—

- (a) for “regulation 11(1B), 11(1C), 11(4), 11(7) or 12” substitute “regulations 11(7)(f) and (10) and regulation 12”
- (b) for sub-paragraph (b) of paragraph (3), substitute—
  - “(b) to the deceased’s personal representatives if—
  - (i) there is no spouse, nominated partner or civil partner, or
  - (ii) a notice has been given in accordance with any of the provisions referred to in paragraph (3A) that the spouse, nominated partner or civil partner is not to receive the payment.”.

(4) After paragraph (3), insert—

“(3A) The provisions referred to in paragraph (3)(b) are—

- (a) regulation F5 of the 1995 Regulations (payment of lump sum);
- (b) regulation 2.E.21 or 3.E.21 of the 2008 Regulations (payment of lump sum on death);
- (c) regulation 112 of the 2015 Regulations (lump sum on death);
- (d) paragraph 11 of Schedule 2.”.

(5) For paragraph (4), substitute—

“(4) Lump sums payable under regulation 11(1)(b), (c) and (d) and regulation 14(1) must be paid to the participator.”.

(6) In paragraph (10), for “regulations E1” to “pensions)” substitute “the provisions referred to in paragraph (10A)”.

(7) After paragraph (10), insert—

“(10A) Those provisions are—

- (a) regulation E1 to E5 or L1 of the 1995 Regulations (which deal with benefits for members and preserved pensions);
- (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions);

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(a) Sub-paragraph (b) was last substituted by regulation 2 of S.I. 2008/655.

(b) Paragraph (1) was last substituted by regulation 54 of S.I. 2010/492.

- (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”.
- (8) In paragraph (11) after sub-paragraph (b), insert—
  - “(c) regulation 109 of the 2015 Regulations (option for members in serious ill-health to exchange pension for lump sum),”.

### **Amendment of regulation 19**

- 63.** For paragraph (a)(a) of regulation 19 (offset for crime, negligence or fraud), substitute—
- “(a) the circumstances set out in any of the following provisions have occurred—
    - (i) regulation T5 of the 1995 Regulations (offset for crime, negligence or fraud);
    - (ii) regulation 2.J.6 or 3.J.6 of the 2008 Regulations (reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
    - (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (offset of benefits); and”.

### **Substitution of regulation 20**

- 64.** For regulation 20 (loss of rights to benefits), substitute—

#### **“Loss of rights to benefits**

**20.**—(1) Where paragraph (2) applies, the Secretary of State may direct that all or any part of any rights to benefit a person has under these Regulations and which arise by virtue of an employer’s contributions paid on or after the date on which these Regulations come into force, are to be forfeited.

- (2) This paragraph applies where on or after the date these Regulations come into force—
- (a) that person commits and is convicted of an offence referred to in—
    - (i) regulation T6 of the 1995 Regulations (loss of rights to benefits);
    - (ii) regulation 2.J.7 or 3.J.7 of the 2008 Regulations (forfeiture of rights to benefits), or
    - (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (forfeiture of rights to benefits), and
  - (b) the circumstances are such that a direction may be made by the Secretary of State under whichever of those provisions applies.”.

### **Amendment of Schedule 2**

**65.**—(1) Schedule 2 (pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership)(b) is amended as follows.

- (2) In paragraph 1 (discharge of liability in respect of pension credit)—
- (a) for paragraph (b) of sub-paragraph (5), substitute—
    - “(b) any dependant’s pension which is payable under it is payable only on the death of the pension credit member after that member has reached normal benefit age and is payable to the dependant for life: this is subject to paragraph (6);”;
  - (b) after sub-paragraph (5), add—
    - “(6) In the case of a person who is a child to whom—
      - (a) Part H of the 1995 Regulations (child allowance) applies;

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(a) Sub-paragraph (a) was last amended by regulation 2 of S.I. 2008/655.  
(b) Schedule 2 was inserted by regulation 4 of S.I. 2001/1428.

(b) regulation 2.E.9 or 3.E.9 of the 2008 Regulations applies (meaning of dependant child); or

(c) regulation 122 of the 2015 Regulations (eligible child) applies,

a pension referred to in paragraph (5)(b) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(7) Sub-paragraph (5) does not apply where, in accordance with sub-paragraph (5C) of paragraph 4, a pension credit member elects to be provided with alternative benefits referred to in sub-paragraph (5B) of that paragraph.”.

(3) In paragraph (4) (pension credit benefit)—

(a) in sub-paragraph (4), for “this paragraph” substitute “sub-paragraph (1) and any alternative benefit referred to in sub-paragraph (5A)”;

(b) after sub-paragraph (5), insert—

“(5A) An authorised provider selected by the Secretary of State—

(a) must provide a pension credit member with an option to receive the benefits referred to in sub-paragraph (5)(a), (aa) and (b); and

(b) may, as from 6th April 2015, provide such a member with an option to receive the alternative benefits referred to in sub-paragraph (5B).

(5B) Those alternative benefits are benefits that are equivalent in value to the benefits referred to in sub-paragraph (5)(a), (aa) and (b) and which comply with the requirements of the 2014 Act.

(5C) A member who wishes to be provided with such alternative benefits must elect to do so by giving the Secretary of State notice in writing not earlier than 3 months before attaining normal benefit age.”;

(c) in sub-paragraph (7)—

(i) after “sub-paragraph (5)” insert “, or as the case may be, sub-paragraph (5C)”;

(ii) after paragraph (b) insert—

“(c) where sub-paragraph (5C) applies, pay the alternative benefits the pension credit member has elected to be provided with,”;

(d) for sub-paragraphs (8) and (9), substitute—

“(8) Where the conditions in sub-paragraph (9) are satisfied, the Secretary of State may realise the investments made under paragraph 2 and apply the proceeds to the purchase of benefits under these Regulations from an insurer that the Secretary of State considers—

(a) suitable,

(b) will satisfy the requirements of regulations 12 to 14 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(a),

(c) will comply with the requirements of the 2014 Act, and

(d) will fully discharge its liability for payment of benefits under these Regulations.

(9) Those conditions are that the pension credit member has—

(a) attained normal benefit age on, or after, 1st May 2001, and

(b) attained the age of 75 and not given notice of an election under sub-paragraph (5) before doing so.

(10) Paragraph (8) applies notwithstanding that the benefits are payable to a pension credit member by virtue of that member being a member of the NHS Pension Scheme under—

(a) Part E or regulation L1 of the 1995 Regulations (benefits for members and preserved pension);

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(a) S.I. 2000/1054.

- (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions); or
- (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”.

(4) For paragraph (b) of sub-paragraph (2)(a) of paragraph 7 (commutation of the whole of pension credit at normal benefit age), substitute—

“(b) the total benefits payable meet the requirements of regulation 12 of the 2009 Regulations.”.

(5) For paragraph 13 substitute—

**“Offset for crime, negligence or fraud**

**13.**—(1) This paragraph applies in relation to pension credit benefit which arises by virtue of pension credit rights which are derived from an employer’s contributions paid on or after the date on which the AVC Regulations came into force in respect of the relevant participator.

(2) Where paragraph (3) applies, the Secretary of State may reduce the amount of any pension credit benefit payable to or in respect of a pension credit member under this Schedule to the extent set out, and subject to the conditions specified, in whichever of the regulations referred to in that paragraph applies.

(3) This paragraph applies where on or after the date these Regulations come into force—

- (a) in respect of a relevant pension credit member the circumstances set out in whichever of the following regulations applies have occurred—
  - (i) regulation T5 of the 1995 Regulations (offset for crime, negligence or fraud);
  - (ii) regulation 2.J.6 or 3.J.6 of the 2008 Regulations (reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
  - (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (offset of benefits), and
- (b) there has been a loss to public funds.

(4) In this paragraph—

“relevant pension credit member” means a pension credit member who is also a member of the NHS Pension Scheme;

“relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.

(6) For paragraph 14 (loss of rights to benefits), substitute—

**“Loss of rights to benefits**

**14.**—(1) Where paragraph (2) applies, the Secretary of State may direct that all or any part of any rights to pension credit benefit a pension credit member has under this Schedule and which arise by virtue of an employer’s contributions paid on or after the date on which the AVC Regulations come into force in respect of a relevant participator, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into force—

- (a) that pension credit member commits and is convicted of an offence referred to in—
  - (i) regulation T6 of the 1995 Regulations (loss of rights to benefits);

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(a) Sub-paragraph (2) was last substituted by regulation 2 of S.I. 2008/655.



- (ii) regulation 2.J.7 or 3.J.7 of the 2008 Regulations (forfeiture of rights to benefits), or
  - (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (forfeiture of rights to benefits), and
- (b) the circumstances are such that a direction may be made by the Secretary of State under whichever of those regulations applies.
- (3) In this paragraph “relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.

## PART 6

### Miscellaneous

#### **Option to persons detrimentally affected by these Regulations**

**66.**—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who, having served in an employment or office, service in which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, ceased to serve therein before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Secretary of State within six months of the coming into force of these Regulations or such longer period as the Secretary of State may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into force of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

Signed by authority of the Secretary of State for Health.

4th February 2015

We consent

5th February 2015

*Daniel Poulter*  
Parliamentary Under-Secretary of State,  
Department of Health

*David Evennett*  
*Harriett Baldwin*  
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 1995 Regulations”), the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) (“the 2008 Regulations”), the National Health Service (Injury Benefits) Regulations 1995 (“the IB Regulations”) and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) (“the AVC Regulations”).

The Regulations are divided into six Parts. Part 1 is introductory, Parts 2 and 3 amend the 1995 Regulations and the 2008 Regulations respectively, Part 4 makes consequential amendments to the IB Regulations, Part 5 makes consequential amendments to the AVC Regulations and Part 6 provides that certain persons detrimentally affected by these Regulations may elect for its provisions not to apply to them.

Part 1 provides for citation, commencement and effect, including that certain provisions of these Regulations take effect before the date they come into force (see section 12(1) Superannuation Act 1972 c.11 for the relevant power).

Parts 2 and 3 make similar amendments in respect of both the 1995 Regulations and the 2008 Regulations. They also introduce amendments specific to either the 1995 Regulations or the 2008 Regulations.

The changes dealing with similar issues in Parts 2 and 3—

- introduce new definitions relevant to those Regulations (regulations 3, 19, 39)
- amend the regulations specifying what constitutes pensionable pay (regulations 4, 20)
- amend the provisions relating to the rate of contributions payable for the scheme years 2015-2016 to 2018-2019 (inclusive) (regulations 5, 15, 22, 24, 41)
- insert new provisions (regulations D1A and E3AB of the 1995 Regulations and regulations 2.C.4A and 2.D.11A of the 2008 Regulations) and amend existing provisions dealing with entitlement to, and calculation of, redundancy pensions and the payment of contributions under an additional contribution option (regulations 6 to 9, 25 to 29)
- amend the provisions relating to applications for transfers (regulations 11, 31 to 33, 43 to 45)
- insert new provisions (regulation M8 of the 1995 Regulations and regulation 2.F.18 and 3.F.18 of the 2008 Regulations) dealing with a member’s right to transfer a preserved or deferred pension to 2015 Scheme (regulations 13, 34, 46)
- amend the provision relating to tax, lifetime allowances and protections (regulations 14, 18).

Amendments specific to the 1995 Regulations—

- make amendments to the provisions governing the payments of pensions to widows in the case of hardship (regulation 10)
- make minor technical amendments to regulation M7 of those Regulations which deals with the right to transfer a preserved pension from the 1995 to the 2008 Section of the Scheme (regulation 12)
- make minor technical amendments to the heading of Schedule 2B (regulation 16).

Amendments specific to the 2008 Regulations—

- make technical correcting amendments to the provisions relating to the determination of pensionable pay (regulation 23)
- amend regulation 2.E.5 to omit unnecessary words (regulation 30)
- make minor amendments to regulations 2.M.3, 2.M.4, 2.M.6 and 2.M.7 (regulations 35 to 38).

Part 4 makes amendments to the IB Regulations to reflect the coming into force of the National Health Service Pension Scheme 2015. The amendments to the IB Regulations insert appropriate cross references to the applicable provisions of the 2015 Scheme to ensure that when calculating benefits under those Regulations the provisions of the 2015 Scheme apply as necessary (regulations 48, 49, 51, 52). The definition of “average remuneration” in the IB Regulations is also amended (regulation 50).

Part 5 makes amendments to the AVC Regulations to reflect the coming into force of the National Health Service Pension Scheme 2015. The amendments to the AVC Regulations insert appropriate cross references to the applicable provisions of the 2015 Scheme in relation to, inter alia, the making and acceptance of elections, payment of additional voluntary contributions, elections, transfers, pensions provision repayment of investments, payments by the Secretary of State offsetting and forfeiture of benefits. The amendments also provide greater flexibility when members take their AVC benefits (regulations 54 to 65).

Part 6 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into force of these Regulations (regulation 66).

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