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STATUTORY INSTRUMENTS

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**2016 No. 245**

**The National Health Service Pension Scheme,  
Injury Benefits and Additional Voluntary  
Contributions (Amendment) Regulations 2016**

**Part 2**

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

**General**

2. The National Health Service Pension Scheme Regulations 1995(1) are amended as follows.

**Amendment of regulation A2**

3. In regulation A2 (interpretation)—

- (a) for the definition of “buy-out policy”, substitute—

““buy-out policy” means a policy of insurance or annuity contract that is appropriate for the purposes of section 19 of the 1993 Act(2) and satisfies any requirement of Her Majesty’s Revenue and Customs: and “buy-out” shall be construed accordingly;”;

- (b) for the definition of “cash equivalent”, substitute—

““cash equivalent” is to be construed in accordance with Chapter 1 of Part 4ZA of the 1993 Act;”;

- (c) for the definition of “practice staff”, substitute—

““practice staff” means a person who is not a registered medical practitioner, a GP registrar or a non-GP provider and who is employed by a GMS practice, a PMS practice, an APMS contractor or an OOH Provider to assist in the provision of any of the following—

- (a) OOH services or services that practice or provider provides pursuant to a GMS contract, PMS agreement or an APMS contract;
- (b) services pursuant to an NHS standard contract;
- (c) services pursuant to an NHS standard sub-contract;
- (d) clinical health care services for the NHS commissioned by an employing authority that is not a GMS practice, a PMS practice, an APMS contractor, an OOH provider or an Independent Provider;”;

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

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(1) [S.I. 1995/300](#).

(2) Section 19 is concerned with the discharge of liability where a guaranteed minimum pension is secured by insurance policies or annuity contract. Subsection (4) of section 19 specifies when a policy of insurance or an annuity contract is appropriate for the purposes of that section.

““contracted-out employment” has the meaning given in section 8 of the 1993 Act; “NHS standard sub-contract” means a sub-contract that complies with the Department of Health guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2015/16”(3);

“shared parental leave” has the meaning given in regulation 3(1) of the Shared Parental Leave Regulations 2014(4);”;

(e) omit the definitions of “safeguarded percentage” and “safeguarded rights”.

### **Amendment of regulation B1**

4. In sub-paragraph (b) of paragraph (3B) of regulation B1 (membership of this Section of the scheme), for “(8V)” substitute “(8U)”.

### **Amendment of regulation B3**

5.—(1) Regulation B3 (restriction on further participation in this Section of the scheme) is amended as follows.

(2) For sub-paragraphs (a) and (b) of paragraph (8H), substitute—

- “(a) is in pensionable employment on 31st March 2015,
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply, or
- (c) is permitted to join this Section of the scheme by virtue of regulation B2(3).”.

(3) For paragraph (8L), substitute—

“(8L) A person who, on 1st April 2012, has attained the age of 46 years and 7 months but has not attained the age of 50, may not contribute to or accrue further pensionable service under this Section of the scheme unless one of paragraphs (8J), (8M) or (8N) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015,
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply, or
- (c) is permitted to join this Section of the scheme by virtue of regulation B2(3).”.

### **Amendment of regulation D2**

6. In paragraph (8) of regulation D2 (contributions by employing authorities), for “purposes of paragraph (3)” substitute “purposes of paragraph (3) or (3A)”.

### **Amendment of regulation K1**

7. For sub-paragraph (c) of paragraph (2) of regulation K1 (contracting-out conditions to be overriding), substitute—

- “(c) if a pension is forfeited for the reasons specified in paragraph (1)(b) or (c) or paragraph (1A) of regulation T6.”.

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(3) Electronic copies of the guidance can be obtained from [www.gov.uk/dh](http://www.gov.uk/dh). Hard copies may be obtained from Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

(4) [S.I. 2014/3050](http://www.gov.uk/legislation/si/2014/3050).

#### **Amendment of regulation K4**

**8.**—(1) Regulation K4 (early leavers) is amended as follows.

(2) For paragraph (1), substitute—

“(1) This paragraph applies if a member who is under guaranteed minimum pension age either—

- (a) leaves contracted-out employment under this Section of the scheme before 6th April 2016, or
- (b) was in contracted-out employment under this Section of the scheme on 5th April 2016 but leaves pensionable employment on, or after, 6th April 2016.

This is subject to paragraph (2).

(1A) Where paragraph (1) applies the member’s guaranteed minimum pension at the date of leaving will be increased, when the member reaches guaranteed minimum pension age or dies (if earlier), by the appropriate percentage specified in relation to each relevant year in the last order under section 148 of the Social Security Administration Act 1992 (revaluation of earnings factors) to come into force before the tax year in which the member reaches guaranteed minimum pension age or dies (if earlier).”.

(3) In paragraph (3), for “If a member returns to contracted-out employment under this Section of the scheme within 6 months after leaving, the two periods of contracted-out” substitute “If a member to whom paragraph (1) applies returns to pensionable employment under this Section of the scheme within 6 months after leaving, the two periods of”.

#### **Amendment of regulation K5**

**9.**—(1) For paragraph (1) of regulation K5 (guaranteed minimum pensions transferred to this Section of the scheme), substitute—

“(1) This paragraph applies where a guaranteed minimum pension has been transferred to this Section of the scheme and the member—

- (a) subsequently leaves contracted-out employment under this Section of the scheme before 6 April 2016, or
- (b) was in contracted-out employment under this Section of the scheme on 5th April 2016 but leaves pensionable employment on, or after, 6th April 2016.

(1A) Where paragraph (1) applies, the guaranteed minimum pension transferred to this Section of the scheme will be increased for each complete tax year after the date of leaving under this Section of the scheme in which the transferred guaranteed minimum pension accrued, until the member reaches guaranteed minimum pension age or dies (if earlier).”.

#### **Amendment of regulation M1**

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

(2) For sub-paragraphs (a) and (b) of paragraph (2)(5), substitute—

- “(a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member that satisfies the requirements set out in regulation 12(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996;
- (b) to acquire rights under a personal pension scheme or another occupational pension scheme;”.

(3) After paragraph (2), insert—

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(5) Paragraph (2) was last amended by regulations 2 and 10 of [S.I. 2009/2446](#).

“(2A) Any use of the cash equivalent of a member’s rights under paragraph (2) must satisfy the requirements of Chapter 1 of Part 4ZA of the 1993 Act.”.

#### **Amendment of regulation P1**

**11.** In paragraphs (1) and (4)(b) of regulation P1 (absence because of illness or injury or certain types of leave)(6), for “or parental leave” substitute “, parental leave or shared parental leave”.

#### **Amendment of regulation Q1**

**12.** For paragraph (9) of regulation Q1 (right to buy additional service), substitute—

“(9) Where a member, following a break in pensionable employment in respect of which he received a refund of contributions which has not been repaid, rejoins this Section of the scheme, he may buy all or any part of the previous pensionable service up to, and including, 5th April 2016 provided that the employment giving rise to that service was not contracted-out employment.”.

#### **Amendment of regulation Q9**

**13.** In sub-paragraph (a) of paragraph (1) of regulation Q9 (effect of member being absent or leaving and rejoining this Section of the scheme during the contribution option period), for “regulation P1(2)” substitute “regulation P1(1)”.

#### **Amendment of regulation R8**

**14.** For sub-paragraph (b) of paragraph (8) of regulation R8 (former members of health service schemes), substitute—

“(b) on the day the member becomes an active member of the 2015 Scheme either—  
(i) paragraph 2 of Schedule 7 to the 2013 Act, or  
(ii) paragraph 2 of Schedule 7 to the Public Service Pensions Act (Northern Ireland) 2014(7),  
applies to the period of service in respect of which that transfer value payment is made.”.

#### **Amendment to regulation T6**

**15.** For paragraph (2) of regulation T6 (loss of rights to benefits), substitute—

“(2) A guaranteed minimum pension may be forfeited only if paragraph (1)(b) or (c) or paragraph (1A) applies.”.

#### **Amendment of regulation T7**

**16.** For sub-paragraph (a) of paragraph (3) of regulation T7 (commutation of trivial pensions), substitute—

“(a) the preservation requirements; and”.

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(6) Paragraphs (1) and (4) were last amended by regulation 2 of S.I. 2007/3280.

(7) 2014 c. 2.

### Amendment of regulation U3

17. In sub-paragraphs (c) and (d) of paragraph (3) of regulation U3 (accounts and actuarial reports), for “D2(1)” substitute “D2”.

### Amendment of Schedule 2

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

(2) In the definition of “locum practitioner” in paragraph 1 (additional definitions used in this Schedule), after “provision of” insert “services pursuant to an NHS standard contract or an NHS standard sub-contract”.

(3) In paragraph 3 (meaning of “pensionable earnings”)—

- (a) in paragraph (a)(i) of sub-paragraph (2), after “NHS standard contract” insert “, an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority”;
- (b) in sub-paragraphs (2B)(a)(ii) and (2C)(b)(8), after “parental leave” insert “, shared parental leave”.

(4) In paragraph 6 (meaning of “pensionable earnings” in relation to other practitioners)—

- (a) in paragraph (a) of sub-paragraph (1) after “an NHS standard contract” insert “, an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority”;
- (b) in sub-paragraph (4)—
  - (i) in paragraph (g), after “an NHS standard contract” insert “, an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority”;
  - (ii) omit paragraph (h).

(5) In paragraph (c) of sub-paragraph (5) and paragraph (e) of sub-paragraph (6) of paragraph 23 (accounts and actuarial reports)(9), after “parental leave payments” insert “, shared parental leave payments”.

### Amendment of Schedule 2B

19.—(1) Schedule 2B (independent providers) is amended as follows.

(2) For paragraphs 16 to 18, substitute—

“16. An approval application may nominate a date (“the nominated date”) from which approval by the Secretary of State (if granted) is to have effect.

17. Where paragraph 16 applies and—

- (a) the Secretary of State is satisfied that the Independent Provider will satisfy the conditions in paragraph 15 at the nominated date,
- (b) the Secretary of State accepts the nominated date for approval purposes, and
- (c) the nominated date is later than the date on which the Secretary of State approves the application,

approval takes effect from the nominated date.

17A. Where paragraph 16 applies and—

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(8) Sub-paragraph (2B) was last amended by regulation 6 of [S.I. 2014/570](#) and sub-paragraph (2C) was last amended by regulation 2 of [S.I. 2013/413](#).

(9) Sub-paragraphs (5) and (6) were last amended by regulation 2 of [S.I. 2013/413](#).

- (a) the Secretary of State is satisfied that the Independent Provider did satisfy the conditions in paragraph 15 at the nominated date,
- (b) the Secretary of State accepts the nominated date for approval purposes,
- (c) the nominated date is earlier than the date on which the Secretary of State approves the application, and
- (d) the Secretary of State has received the contributions referred to in paragraphs (iv) and (v) of sub-paragraph (h) of paragraph 15,

approval takes effect from the nominated date.

**18.** Where an approval application—

- (a) does not include a nominated date, or
- (b) does include such a date, but which the Secretary of State does not accept for approval purposes,

approval takes effect from the date that it is granted by the Secretary of State.”.

(3) After sub-paragraph (a) of paragraph 52, insert—

- “(ab) a complete list of such of the contracts referred to in paragraph (a) which the Independent Provider has sub-contracted by way of NHS standard sub-contract to a third party: that list must identify the third party and also specify the total gross amounts expressed to be payable under such sub-contracts to that third party;”.