

---

STATUTORY INSTRUMENTS

---

**2017 No. 275**

**The National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2017**

**PART 3**

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

**General**

**10.** The National Health Service Pension Scheme Regulations 2008<sup>(1)</sup> are amended in accordance with this Part.

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

**11.** In paragraph (3B) of regulation 1.B.3 (provision of information relevant for tax purposes)<sup>(2)</sup>, for “scheme administrator” substitute “Scheme administrator”.

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

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

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

““the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014.<sup>(3)</sup>”

““scheme administration charge” means the charge provided for in regulation 2.C.6A.”

(3) In the definition of “NHS standard contract”<sup>(4)</sup>—

(a) for “standard commissioning contract”, substitute “terms and conditions”;

(b) before “2012”, insert “Regulations”.

(4) In the definition of “NHS standard sub-contract”<sup>(5)</sup>, for “2015/16” substitute “2016/17”<sup>(6)</sup>.

(5) In sub-paragraph (c) of the definition of “practice staff”, after “NHS standard sub-contract” insert “where the party to the NHS standard contract in question is an employing authority”.

(6) In the definition of “qualifying contract”<sup>(7)</sup>, after sub-paragraph (c), insert—

“; or

---

(1) S.I. 2008/653 as amended by S.I. 2008/2263, S.I. 2009/381, S.I. 2009/1298, S.I. 2009/2446, S.I. 2010/234, S.I. 2010/492, S.I. 2010/1634, S.I. 2011/591, S.I. 2011/2586 (partly with retrospective effect), S.I. 2012/610 (partly with retrospective effect), S.I. 2013/413 (partly with retrospective effect), S.I. 2013/1414, S.I. 2014/78, S.I. 2014/570, S.I. 2014/1607, S.I. 2015/95, S.I. 2015/96, S.I. 2016/211, S.I. 2016/245 and by S.I. 2012/1909.

(2) This paragraph was inserted by regulations 17 and 18 of S.I. 2015/96.

(3) 2014 c.2.

(4) This definition was inserted by regulation 20(b)(ii) of S.I. 2014/570.

(5) This definition was inserted by regulations 20 and 21(e) of S.I. 2014/245.

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

(7) This definition was inserted by regulation 20(b)(ii) of S.I. 2014/570.

(d) an NHS standard sub-contract;”.

(7) In sub-paragraph (b)(ii) of paragraph (2A)(8), for “administration charge” substitute “scheme administration charge under regulation 2.C.6A(9) and any supplementary charge”.

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

13.—(1) Regulation 2.B.2 (restrictions on eligibility: general) is amended as follows.

(2) In sub-paragraph (b) of paragraph (1H)(10)—

(a) after “2013 Act”, insert “or subsection (5) of section 18 of the 2014 Act”;

(b) for “that section” substitute “those sections”.

(3) In paragraph (1J)(11) in sub-paragraph (a), after “2013 Act” insert “or Schedule 5 to the 2014 Act”;

(4) In sub-paragraph (c), substitute—

(a) after “2013 Act”, insert “or subsection (5) of section 18 of the 2014 Act”;

(b) for “that section” substitute “those sections”.

(5) In paragraphs (13C) and (13D)(12), for “(8B)” substitute “(13B)”.

(6) In paragraph (13F)(13), for “2M.3” substitute “2.M.3”.

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

14.—(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 “the employing authority must” insert “subject to paragraph (6),”.

(3) In paragraph (2), after “the first authority must” insert “, subject to paragraph (6),”.

(4) In sub-paragraph (a) of paragraph (6)(14), for “Actuary” substitute “actuary”.

### **New regulation 2.C.6A**

15. After regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11), insert—

#### **“2.C.6A Scheme administration charge**

(1) Each employing authority must, in respect of each member who is liable to contribute to this Section of the Scheme, pay a scheme administration charge in accordance with this regulation.

(2) The scheme administration charge is to be paid to the Secretary of State on the same day, and in respect of the same period, as the employer’s standard rate contributions under regulation 2.C.5 are to be paid by that employing authority in respect of the member referred to in paragraph (1).

(3) The scheme administration charge is to be calculated as a percentage of that member’s pensionable pay, or as the case may be, pensionable earnings, for the period mentioned in paragraph (2).

---

(8) This paragraph was inserted by [S.I. 2014/570](#).

(9) Regulation 2.C.6A is inserted by these Regulations.

(10) This paragraph was inserted by regulation 42 and paragraphs 9 and 11 (Part 2) of Schedule 2 to [S.I. 2015/95](#).

(11) This paragraph was inserted by regulation 42 and paragraphs 9 and 11 (Part 2) of Schedule 2 to [S.I. 2015/95](#).

(12) These paragraphs were inserted by regulation 23 of [S.I. 2014/570](#).

(13) This paragraph was inserted by regulation 23 of [S.I. 2014/570](#).

(14) This paragraph was inserted by regulation 27 of [S.I. 2014/570](#).

(4) The percentage mentioned in paragraph (3) is to be determined by the Secretary of State taking into account the administrative costs of running the scheme and notified to each employing authority.”.

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

**16.**—(1) Regulation 2.F.9 (procedure for applications under regulation 2.F.8) is amended as follows.

(2) In sub-paragraph (c)(ii) of paragraph (1)(**15**), for “transfer value payment is made.” substitute “transfer value payment is made; or”.

(3) After sub-paragraph (c)(ii) of paragraph (1), insert—

“(iii) where the applicant is not eligible to be an active member of this Section of the Scheme and the application is made in respect of a period of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act or Schedule 5 to the 2014 Act) or an existing public body scheme listed in Schedule 10 to those Acts, during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if—

(aa) paragraph 2 of Schedule 7 to the 2013 Act or paragraph 2 of Schedule 7 to the 2014 Act applies to the period of service in respect of which that transfer value payment is made, and

(bb) the transfer value payment is not made and accepted under the public sector transfer arrangements.”.

#### **Amendment of regulation 2.F.18**

**17.**—(1) Regulation 2.F.18 (right to transfer a deferred pension to the 2015 Scheme)(**16**) is amended as follows.

(2) After paragraph (5), insert—

“(5A) The Secretary of State must provide a member to whom this regulation applies with a notice in writing stating that the member has the right to request a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations (“a statement of entitlement”).

(5B) The Secretary of State must provide the member with the notice referred to in paragraph (5A) within 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.

(5C) A member who has received a notice in accordance with paragraph (5A) may request the Secretary of State to provide a statement of entitlement in accordance with paragraph (5D).

(5D) For the purposes of paragraph (5C), a request for a statement of entitlement must—

(a) be made by the member in writing on the form provided by the Secretary of State for that purpose;

(b) be received by the Secretary of State before the end of the three month period beginning with the date of the notice under paragraph (5A).”.

(3) For paragraph (6), substitute—

---

(15) This paragraph was substituted by regulations 20 and 33 of [S.I. 2016/245](#).

(16) This paragraph was inserted by regulations 17 and 34 of [S.I. 2015/96](#).

“(6) The Secretary of State must provide a member who has requested a statement of entitlement in accordance with paragraph (5D) with a statement of entitlement at the guarantee date.”

(4) For sub-paragraph (a) of paragraph (9), substitute—

“(a) the period of three months beginning with the date that the Secretary of State receives the member’s request for a statement of entitlement in accordance with paragraph (5D); or”.

### Amendment of regulation 2.H.1

**18.** In paragraph (4) of regulation 2.H.1 (application of Chapter 2.H)(**17**), for “paragraph (5)” substitute “paragraph (4A)”.

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

**19.**—(1) Regulation 2.J.9A (interest and administration charges: late paid contributions)(**18**) is amended as follows.

(2) In paragraph (1)—

- (a) after “contributions” insert “and the scheme administration charge”;
- (b) after “2.C.6,” insert “2.C.6A,”(**19**).

(3) In paragraph (2), after “contributions” (three times) insert “or, as the case may be, the scheme administration charge”.

(4) In paragraph (3), for “an administration charge in respect of each such event” substitute “the amount of unpaid scheme administration charge or both together with a supplementary charge in respect of each such event”.

(5) In paragraph (4)—

- (a) in sub-paragraph (b), after “unpaid contributions” insert “or unpaid scheme administration charge, or both;”;
- (b) in sub-paragraphs (d) and (e), for “administration” substitute “supplementary”.

(6) In paragraph (5), for “administration charge” substitute “supplementary charge”.

(7) In paragraph (6), for “administration charges” substitute “supplementary charges”.

(8) In paragraph (8), for “administration charge” substitute “supplementary charge”.

### Amendment of regulation 2.M.3

**20.**—(1) Regulation 2.M.3 (approval applications)(**20**) is amended as follows.

(2) For sub-paragraph (a)(ii) of paragraph (2), substitute—

“(ii) who is performing services pursuant to such a contract and who satisfies the wholly or mainly condition, and”.

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

“(iii) who was, within the twelve months preceding the date of entering into employment with the Independent Provider, in an employment in which that employee was entitled to participate in superannuation benefits provided under section 10 of the Superannuation Act 1972

---

(17) This paragraph was last amended by regulations 11 and 103 and paragraph 1(a) of Schedule 2 to [S.I. 2009/2446](#) and regulations 31(1) and (2) of [S.I. 2014/570](#).

(18) This regulation was inserted by regulation 33 of [S.I. 2014/570](#).

(19) Regulation 2.C.6A is inserted by these Regulations.

(20) Regulation 2.M.3 was inserted by regulation 35 of [S.I. 2014/570](#).

whether or not that employee had actually been a member of this Section of the Scheme pursuant to that entitlement; or”.

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

**21.**—(1) Regulation 2.M.6 (75% pensionable pay threshold and contribution surcharge)(**21**) is amended as follows.

(2) In paragraph (7)—

(a) for “administration charge” substitute “supplementary charge”;

(b) for “administration charges” substitute “supplementary charges”.

(3) In paragraph (8) for “an administration charge” substitute “a supplementary charge”.

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

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

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

““the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014”

““scheme administration charge” means the charge provided for in regulation 3.C.3A.”.

(3) In the definition of “NHS standard contract”(22)—

(a) for “standard commissioning contract”, substitute “terms and conditions”;

(b) before “2012”, insert “Regulations”.

(4) In the definition of “NHS standard sub-contract”(23), for “2015/16” substitute “2016/17”(24).

(5) In sub-paragraph (c) of the definition of “practice staff”(25), after “NHS standard sub-contract”, insert “where the party to the NHS standard contract in question is an employing authority”.

(6) In the definition of “qualifying contract”, after sub-paragraph (c), insert—

“; or

(d) an NHS standard sub-contract;”.

(7) In paragraph (2), in the definition of “host Board” for “administration charge” substitute “scheme administration charge under regulation 3.C.3A(26) and any supplementary charge”.

### **Amendment of regulation 3.A.13**

**23.** In paragraphs (1) and (2) of regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners), omit “or for overtime”.

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

**24.**—(1) Regulation 3.B.2 (restrictions on eligibility: general) is amended as follows.

(2) In sub-paragraph (b) of paragraph (1H)(27)—

---

(21) Regulation 2.M.6 was inserted by regulation 35 of [S.I. 2014/570](#).

(22) This definition was inserted by regulations 36(1) and (2)(b) of [S.I. 2014/570](#).

(23) This definition was inserted by regulations 20 and 39(e) of [S.I. 2016/245](#).

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

(25) This definition was substituted by regulations 20 and 39(e) of [S.I. 2016/245](#).

(26) Regulation 3.C.3A is inserted by these Regulations.

(27) Paragraph (1H) was inserted by regulation 42 and paragraph 9 and 17 of Part 2 of the Schedule 2 to [S.I. 2015/95](#).

- (a) after “2013 Act”, insert “or subsection (5) of section 18 of the 2014 Act”;
  - (b) for “that section” substitute “those sections”.
- (3) In paragraph (1J)—
- (a) in sub-paragraph (a), after “2013 Act” insert “or Schedule 5 to the 2014 Act”;
  - (b) in sub-paragraph (c)—
    - (i) after “2013 Act”, insert “or subsection (5) of section 18 of the 2014 Act”;
    - (ii) for “that section” substitute “those sections”.

### **New regulation 3.C.3A**

**25.** After regulation 3.C.3 (contributions by employing authorities: general), insert—

**“3.C.3A Scheme administration charge**

(1) Each employing authority must, in respect of each member who is liable to contribute to this Section of the Scheme, pay a scheme administration charge in accordance with this regulation.

(2) The scheme administration charge is to be paid to the Secretary of State on the same day, and in respect of the same period, as the employer’s standard rate contributions under regulation 3.C.3 are to be paid by that employing authority in respect of the member referred to in paragraph (1).

(3) The scheme administration charge is to be calculated as a percentage of that member’s pensionable earnings, for the period mentioned in paragraph (2).

(4) The percentage mentioned in paragraph (3) is to be determined by the Secretary of State taking into account the administrative costs of running the scheme and notified to each employing authority.”.

### **Amendment of regulation 3.F.18**

**26.—**(1) Regulation 3.F.18 (right to transfer a deferred pension to the 2015 Scheme)**(28)** is amended as follows.

(2) After paragraph (5), insert—

“(5A) The Secretary of State must provide a member to whom this regulation applies with a notice in writing stating that the member has the right to request a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations (“a statement of entitlement”).

(5B) The Secretary of State must provide the member with the notice referred to in paragraph (5A) within 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.

(5C) A member who has received a notice in accordance with paragraph (5A) may request the Secretary of State to provide a statement of entitlement subject to paragraph (5D).

(5D) For the purposes of paragraph (5C), a request for a statement of entitlement must—

- (a) be made by the member in writing on the form provided by the Secretary of State for that purpose;

---

**(28)** This regulation was inserted by regulations 17 and 46 of [S.I. 2015/96](#).

- (b) be received by the Secretary of State before the end of the three month period beginning with the date of the notice under paragraph (5A).”.
- (3) For paragraph (6), substitute—
- “(6) The Secretary of State must provide a member who has requested a statement of entitlement in accordance with paragraph (5D) with a statement of entitlement at the guarantee date.”.
- (4) For sub-paragraph (a) of paragraph (9), substitute—
- “(a) the period of three months beginning with the date that the Secretary of State receives the member’s request for a statement of entitlement in accordance with paragraph (5D); or”.

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

**27.** In paragraph (5) of regulation 3.H.1 (application of Chapter 3.H)(**29**), for “paragraph (6)” substitute “paragraph (5A)”.

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

**28.**—(1) Regulation 3.J.9A (interest and administration charges: late paid contributions)(**30**) is amended as follows.

- (2) In paragraph (1)—
- (a) after “contributions” insert “and the scheme administration charge”;
- (b) after “3.C.3,” insert “3.C.3A.”.
- (3) In paragraph (2), after “contributions” (three times) insert “or, as the case may be, the scheme administration charge”.
- (4) In paragraph (3), for “an administration charge in respect of each such event” substitute “the amount of unpaid scheme administration charge or both together with a supplementary charge in respect of each such event”.
- (5) In paragraph (4)—
- (a) in sub-paragraph (b), after “unpaid contributions” insert “or unpaid scheme administration charge, or both;”;
- (b) in sub-paragraphs (d) and (e), for “administration” substitute “supplementary”.
- (6) In paragraph (5), for “administration charge” substitute “supplementary charge”.
- (7) In paragraph (6), for “administration charges” substitute “supplementary charges”.
- (8) In paragraph (8), for “administration charge” substitute “supplementary charge”.

---

(29) This paragraph was last amended by regulations 46(1) and (2) of S.I. 2014/570.

(30) This regulation was inserted by regulation 47 of S.I. 2014/570.