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STATUTORY INSTRUMENTS

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**2019 No. 418**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES  
PUBLIC SERVICE PENSIONS,  
ENGLAND AND WALES**

**The National Health Service Pension Schemes,  
Additional Voluntary Contributions and Injury  
Benefits (Amendment) Regulations 2019**

*Made* - - - - *28th February 2019*  
*Laid before Parliament* *4th March 2019*  
*Coming into force in accordance with regulation 1(2)*  
*and (3)*

The Secretary of State for Health and Social Care makes the following Regulations in exercise of the powers conferred by sections 10(1), (2) and (2A), and 12(1) and (2) of, and Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup> and sections 1(1) and (2)(e), 3 and 18(5), and paragraph 5(a) of Schedule 2 and Schedule 3 to, the Public Service Pensions Act 2013<sup>(2)</sup>.

In accordance with section 10(4) of the Superannuation Act 1972 and section 21 of the Public Service Pensions Act 2013, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations<sup>(3)</sup>.

In accordance with section 10(1)(4) of the Superannuation Act 1972 and section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

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- (1) 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 10(2A) was inserted by section 8(5) of the 1990 Act. Section 12(2) was amended by section 10(1) of the 1990 Act.
- (2) 2013 c.25 (the "2013 Act").
- (3) The Secretary of State has published a statement pursuant to section 21(2) of the 2013 Act of those persons he would normally expect to consult. That list can be found at [www.gov.uk/government/publications/nhs-pension-scheme-consultee-list](http://www.gov.uk/government/publications/nhs-pension-scheme-consultee-list), or by writing to the Department of Health and Social Care, Quarry House, Leeds, LS2 7UE.
- (4) The functions of the Minister for the Civil Service under section 10 were transferred to the Treasury by article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

## PART 1

### Introductory

#### Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations 2019.

(2) Save as provided in paragraph (3), these Regulations come into force on 1st April 2019.

(3) Regulations 3(2), 3(4), 3(7), 7 to 9, 11, 27 to 31, 43(3)(a) and (c), 44, 48 to 49, 52 to 53, 59(2) and (3), 60, 65 to 66, 69 to 70, 77, 84 to 85, 88 to 89 and 94(a) and (c) come into force on 6th April 2019.

(4) Regulation 6 has effect from 1st April 2018.

(5) Regulations 82 to 83, 86 to 87, 90, 91(2) and 107 have effect from 1st April 2015.

(6) Regulations 40(3)(b) and 63(a) have effect from 1st April 2014.

(7) Regulations 58 and 75 have effect from 1st April 2010.

(8) Regulations 57 and 74 have effect from 1st October 2009.

(9) Regulations 3(3), 10, 12 to 13, 18 to 19, 21(b), 22 to 26, 32(3), 33(3), 34 to 36, 37(2), 40(5), 50 to 51, 54, 55(2), 67 to 68, 71, 72(2), 96 to 98 and 100 to 105 have effect from 1st April 2008.

(10) Regulations 14 to 17, 20, 21(a) and (c), 32(2), 33(2), 38 and 40(4) have effect from 5th December 2005.

## PART 2

### Amendments to the National Health Service Pension Scheme Regulations 1995

#### General

2. The National Health Service Pension Scheme Regulations 1995(5) are amended in accordance with this Part.

#### Amendment of regulation A2

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

(2) After the definition of “the 2015 Scheme”(6) insert—

““the 2016 Order” means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016(7);”.

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

““scheme partner” has the meaning given in regulation G14(7);

“surviving scheme partner” has the meaning given in regulation G14(8);”.

(4) For the definition of “contracting-out requirements” substitute

““contracting-out requirements” means the requirements mentioned in—

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(5) S.I. 1995/300. Relevant amending instruments are S.I. 2005/661, 2008/654, 2009/381, 2010/234, 2010/1634, 2011/2586, 2013/413, 2014/570, 2015/96, 2016/245 and 2017/275.

(6) The definition of “the 2015 Scheme” was inserted by regulations 2 and 3 of S.I. 2015/96.

(7) S.I. 2016/252.

- (a) paragraphs 1(a)(ii) and (2) of regulation 18 (payment of a lump sum instead of a pension); and
  - (b) paragraphs (5) and (6) of regulation 25 (payment of lump sum instead of a pension), of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015(8);”.
- (5) For the definition of “NHS standard sub-contract”(9) substitute—
- ““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”(10);”.
- (6) For the definition of “officer” substitute—
- ““officer” means a person employed by an employing authority including a GP Registrar and a non-GP provider, but does not include—
- (a) a GP performer;
  - (b) a dentist performer;
  - (c) a person engaged under a contract for services;”.
- (7) For the definition of “section 9(2B) rights” substitute—
- ““section 9(2B) rights” has the same meaning given in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015;”.
- (8) Omit the definition of “CCT(11)”.

#### **Amendment of regulation D1**

4. In regulation D1 (contributions by members), in paragraph (1A)(12), for—
- (a) “of the scheme years 2015-2016 to 2018-2019 inclusive”, substitute “scheme year from 2015-2016”;
  - (b) the heading to the table, substitute “Scheme Years from 2015-16”.

#### **Amendment of regulation D2**

5. In regulation D2 (contributions by employing authorities), in paragraph (2), for “14.3%” substitute “20.6%”(13).

#### **Amendment of regulation D3**

6. In regulation D3 (further contributions by employing authorities in respect of excessive pay increases), after paragraph (19A) insert—

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(8) [S.I. 2015/1677](#).

(9) This definition was inserted by regulations 2 and 3(d) of [S.I. 2016/245](#) and amended by regulations 2 and 3(3) of [S.I. 2017/275](#).

(10) Electronic copies of the guidance referred to in that definition can be obtained from [www.england.nhs.uk](http://www.england.nhs.uk). E-mail: [england.contactus@nhs.net](mailto:england.contactus@nhs.net). Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

(11) This definition was inserted by regulation 2(b) of [S.I. 2005/661](#) and amended by article 7 and paragraph 16 of Schedule 3 to [S.I. 2010/234](#).

(12) Paragraph (1A) was inserted by regulation 7(1) and (2) of [S.I. 2008/654](#) and amended by regulations 2 and 5(1) and (2) of [S.I. 2015/96](#).

(13) Paragraph (2) was amended by regulations 2 and 4 of [S.I. 2010/1634](#) and regulations 2 and 7(1) and (2) of [S.I. 2015/96](#).

“(19B) An increase in a member’s pensionable pay pursuant to the “Framework agreement on the reform of Agenda for Change” adopted on 27 June 2018(14) is to be ignored for the purposes of this regulation.”.

#### **Amendment of regulation E1**

7. In regulation E1 (normal retirement pension), in paragraph (4), for “consistent” to the end substitute—

“consistent with—

- (a) the contracting-out requirements; and
- (b) the preservation requirements.”.

#### **Amendment of regulation E2**

8. In regulation E2 (early retirement pension (ill-health)), in paragraph (7), for “consistent” to the end substitute—

“consistent with—

- (a) the contracting-out requirements; and
- (b) the preservation requirements.”.

#### **Amendment of regulation E2A**

9. In regulation E2A (ill health pension on early retirement), in paragraph (7), for “consistent” to the end substitute—

“consistent with—

- (a) the contracting-out requirements; and
- (b) the preservation requirements.”.

#### **Amendment of regulation F5**

10. In regulation F5 (payment of lump sum), for paragraph (12)(15) substitute—

“(12) In this regulation “surviving partner” means—

- (a) a surviving scheme partner; or
- (b) one of the following, who survives the member—
  - (i) a widow;
  - (ii) a widower;
  - (iii) a civil partner.”.

#### **Amendment of regulation G5**

11. In regulation G5 (member dies within 12 months after leaving pensionable employment without pension or preserved pension), in paragraph (2), for “section 55(2) of the Pension Schemes Act 1993” substitute “section 55 of the 1993 Act or article 3 of the 2016 Order”.

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(14) The Framework agreement covers the years from 1 April 2018 to 31 March 2021 and sets out, in Annex A, the new pay structure for those years. The Framework agreement can be found at [www.nhsemployers.org/your-workforce/2018-contract-refresh/framework-agreement](http://www.nhsemployers.org/your-workforce/2018-contract-refresh/framework-agreement). Hard copies can be obtained from the NHS Pensions team, Department of Health and Social Care, Quarry House, Leeds, LS2 7UE.

(15) Paragraph (12) was inserted by regulation 17 of [S.I. 2008/654](#).

### **Amendment of regulation G6**

12. In regulation G6 (member marries after leaving pensionable employment), in paragraph (4)—
- (a) for “nominated partner” substitute “scheme partner”;
  - (b) for “nominated partner’s pension” substitute “scheme partner’s pension”;
  - (c) for “nominated partner pension” substitute “surviving scheme partner’s pension”.

### **Amendment of regulation G9**

13. In regulation G9 (increased widower’s pension), in paragraph (5), in sub-paragraph (b), for “nominated partner” substitute “scheme partner”.

### **Amendment of regulation G10**

- 14.—(1) Regulation G10 (surviving civil partner’s pension) is amended as follows.
- (2) In paragraph (2), omit “Subject to paragraph (3),”.
  - (3) Omit paragraphs (3), (4) and (5).

### **Omission of regulation G11**

15. Omit regulation G11 (dependent surviving civil partner’s pension).

### **Omission of regulation G12**

16. Omit regulation G12 (purchase of surviving civil partner’s pension in respect of service prior to 6th April 1988).

### **Omission of regulation G13**

17. Omit regulation G13 (increased surviving civil partner’s pension).

### **Amendment of regulation G14**

18. For regulation G14(16) (surviving nominated partner’s pension), substitute—

#### **“Surviving scheme partner’s pension**

- G14.**—(1) This regulation applies on the death of a member, if—
- (a) the member has pensionable service on or after 1st April 2008,
  - (b) the member dies in any of the circumstances described in regulations G2 to G6, and
  - (c) the member leaves a surviving scheme partner.
- (2) Where this regulation applies, a surviving scheme partner is entitled to a surviving scheme partner’s pension.
- (3) A surviving scheme partner’s pension is calculated and paid—
- (a) in accordance with regulations G1 to G6, as they apply to pensions for widows, and
  - (b) excluding any part of the member’s benefit that is based on pensionable service before 6th April 1988.

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(16) Regulation G14 was inserted by regulation 29 of [S.I. 2008/654](#).

- (4) Paragraph 3(b) is subject to the following—
- (a) if regulation G2(3) or (3C) or regulation G4(2) or (2A) applies to the calculation of a surviving scheme partner’s pension on a member’s death in pensionable employment or with a preserved pension—
    - (i) the whole of the member’s pensionable service is taken into account when calculating whether and, if so, the extent to which there would have been an increase, by the application of regulation E2(3) or regulation E2A(4), in the pensionable service on which the member’s pension, under regulation E2 or regulation E2A, would have been based, and
    - (ii) the whole period, if any, by which the member’s pension would have increased, is treated, in this regulation, as pensionable service after 5th April 1988 for the purpose of calculating a surviving scheme partner’s pension;
  - (b) if regulation G3(2) applies, so that the surviving scheme partner’s pension is equal to the member’s pension for a limited period, the surviving scheme partner’s pension for that limited period is equal to the whole of the member’s pension.
- (5) If regulation G6 applies, paragraph (1) of that regulation applies as if the words “where the member and his wife were not married to each other during any period of pensionable employment” read “if the Secretary of State is not satisfied that a member’s partner was the member’s scheme partner for a continuous period of at least two years ending on the member’s last day of pensionable service”.
- (6) A reference in these Regulations to regulation G1 to G6 means, in relation to benefits in respect of a member who has a scheme partner, those regulations as applicable to the member’s surviving scheme partner.
- (7) A person (P) is the scheme partner of a member if —
- (a) the member and P are living together as if they were husband and wife or civil partners,
  - (b) the member and P are not prevented from marrying or entering into a civil partnership,
  - (c) the member and P are financially interdependent or P is financially dependent on the member, and
  - (d) neither the member nor P is living with a third person as if they were husband and wife or as if they were civil partners.
- (8) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death, the person was the scheme partner of that member.”.

### **Amendment of regulation G15**

**19.**—(1) Regulation G15 (dependent surviving nominated partner’s pension) is amended as follows.

(2) In the heading for “nominated partner’s” substitute “scheme partner’s”.

(3) For paragraph (1), substitute—

“(1) A member may apply for the member’s scheme partner to receive a dependent surviving scheme partner’s pension on the member’s death.

(1A) An application must—

- (a) be made by the member giving notice in writing to the Secretary of State before leaving pensionable employment, and

- (b) be in relation to a person who has been the member's scheme partner for a continuous period of at least two years on the member's last day of pensionable service."
- (4) In paragraph (2) for "nominated partner" substitute "scheme partner".
- (5) For paragraph (3), substitute—
  - "(3) If the Secretary of State has accepted a member's application and the member subsequently dies before the member's scheme partner, a scheme partner entitled to a surviving scheme partner's pension is entitled to a dependent surviving scheme partner's pension."
- (6) In paragraph (4) for "nominated partner's" substitute "scheme partner's".
- (7) In paragraph (5) for "nominated partner's" substitute "scheme partner's".
- (8) In paragraph (6) for "nominated partner" substitute "scheme partner".

### **Amendment of regulation G16**

**20.** In regulation G16 (purchase of surviving partner's pension in respect of service before 6th April 1988), in paragraph (5), omit sub-paragraph (b).

### **Amendment of regulation G17**

- 21.** In regulation G17 (increased surviving partner's pension), in paragraph (2)—
- (a) omit ", civil partner";
  - (b) for "nominated partner" substitute "surviving scheme partner";
  - (c) omit ", regulation G10".

### **Amendment of regulation H1**

- 22.** In regulation H1 (dependent child), in paragraph (1)—
- (a) in sub-paragraph (c) for "nominated partner" substitute "surviving scheme partner";
  - (b) for sub-paragraph (e) substitute—
    - "(e) a child of a member's surviving scheme partner if the Secretary of State is satisfied that the surviving scheme partner was the member's scheme partner before the date on which the member leaves pensionable employment;"

### **Amendment of regulation H3**

- 23.**—(1) Regulation H3 (member dies in pensionable employment)(17) is amended as follows.
- (2) In paragraph (4A) for "nominated partner" substitute "scheme partner".
  - (3) In paragraph (4B)—
    - (a) for "nominated partner's pension" substitute "surviving scheme partner's pension";
    - (b) for "nominated partner" substitute "scheme partner".
  - (4) In paragraph (4C)—
    - (a) for "nominated partner's pension" substitute "surviving scheme partner's pension";
    - (b) for "nominated partner" substitute "scheme partner".
  - (5) In paragraph (4D) for "nominated partner" substitute "scheme partner".

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(17) Paragraphs (4A) to (4E) were inserted by regulation 31(1) and (4) of [S.I. 2008/654](#).

- (6) In paragraph (4E) for “nominated partner” substitute “scheme partner”.

#### **Amendment of regulation H4**

- 24.**—(1) Regulation H4 (member dies after pension becomes payable) is amended as follows.
- (2) In paragraph (3) for “nominated partner”(18) substitute “scheme partner”.
- (3) In paragraph (4)(19) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (5)—
- (a) for “nominated partner”(20) substitute “scheme partner”;
- (b) for “surviving nominated partner’s pension”(21) substitute “surviving scheme partner’s pension”;
- (5) In paragraph (6)(22)—
- (a) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”;
- (b) for “surviving nominated partner” substitute “surviving scheme partner”.
- (6) In paragraph (7)(23)—
- (a) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”;
- (b) for “surviving nominated partner” substitute “surviving scheme partner”.

#### **Amendment of regulation H5**

- 25.**—(1) Regulation H5 (member dies with preserved pension) is amended as follows.
- (2) In paragraph (4)(24) for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (5)(25) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (6)(26)—
- (a) for “nominated partner” substitute “scheme partner”;
- (b) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”.

#### **Amendment of regulation H7**

- 26.**—(1) Regulation H7 (dependent child not being maintained by surviving parent or spouse or civil partner or nominated partner of a parent) is amended as follows.
- (2) In the heading(27) for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (1)(28) for each reference to “nominated partner” substitute “scheme partner”.
- (4) In paragraph (2)(29) for “nominated partner” substitute “scheme partner”.

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(18) “Nominated partner” was inserted by regulation 32(1) and (3) of S.I. 2008/654.

(19) Regulation H4(4) was amended by regulations 2 and 12 of S.I. 2013/413.

(20) “Nominated partner” was inserted by regulation 8(b)(i) of S.I. 2009/381.

(21) “Surviving nominated partner’s” was inserted by regulation 8(b)(ii) of S.I. 2009/381.

(22) As amended by regulation 8(c)(i) and (ii) of S.I. 2009/381.

(23) As amended by regulation 8(d)(i) and (ii) of S.I. 2009/381.

(24) “Nominated partner” was inserted by regulation 33(1) and (5)(a) of S.I. 2008/654.

(25) “Nominated partner” was inserted by regulation 33(1) and (5)(a) of S.I. 2008/654.

(26) As amended by regulation 33(1), (6)(a) and (b) of S.I. 2008/654.

(27) As amended by regulation 34(1) of S.I. 2008/654.

(28) As amended by regulation 34(2) of S.I. 2008/654.

(29) As amended by regulation 34(2) of S.I. 2008/654.



### **Amendment of regulation K1**

27. In regulation K1 (contracting-out conditions to be overriding), in paragraph (3), for sub-paragraph (a) substitute—

- “(a) “contracting-out conditions” means—
- (i) the conditions specified in section 12E of the 1993 Act; and
  - (ii) the conditions or requirements that apply in respect of a member’s section 9(2B) rights;”.

### **Amendment of regulation K4**

28. In regulation K4 (early leavers), in paragraph (3), for sub-paragraph (a) substitute—

- “(a) a state scheme premium under section 55 of the 1993 Act or article 3 of the 2016 Order;”.

### **Amendment of regulation K7**

29.—(1) Regulation K7 (state scheme premiums) is amended as follows.

(2) For paragraph (1) substitute—

“(1) The Secretary of State may discharge the liability to provide any guaranteed minimum pension by paying a state scheme premium under section 55 of the 1993 Act or article 3 of the 2016 Order.”.

(3) In paragraph (2), for “section 55(2) of the Pension Schemes Act 1993” substitute “section 55 of the 1993 Act or article 3 of the 2016 Order”.

### **Amendment of regulation L1**

30. In regulation L1 (preserved pension), in paragraph (5), for “consistent” to the end substitute—  
“consistent with—

- (a) the contracting-out requirements; and
- (b) the preservation requirements.”.

### **Amendment of regulation L2**

31. In regulation L2 (refund of contributions), in paragraph (3), for “section 55(2) of the 1993 Act” substitute “section 55 of the 1993 Act or article 3 of the 2016 Order”.

### **Amendment of regulation Q1**

32.—(1) Regulation Q1 (right to buy additional service) is amended as follows.

(2) Omit paragraph (5A).

(3) In paragraph (5B)(30)—

- (a) for “nominated partner’s pension” substitute “scheme partner’s pension”;
- (b) for “nominated partner” substitute “surviving scheme partner”.

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(30) Paragraph (5B) was inserted by regulation 45(1) and (5) of [S.I. 2008/654](#).

### **Amendment of regulation Q5**

**33.**—(1) Regulation Q5 (paying for unreduced retirement lump sum by single payment) is amended as follows.

- (2) Omit paragraph (2A).
- (3) In paragraph (2B)—
  - (a) for each reference to “nominated partner” substitute “scheme partner”;
  - (b) for “nominated partner’s pension” substitute “scheme partner’s pension”.

### **Amendment of regulation R3**

**34.** In regulation R3 (mental health officers), in paragraph (7), in sub-paragraph (b) for “nominated partner’s pension” substitute “scheme partner’s pension”.

### **Amendment of regulation S4**

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

- (2) In paragraph (4) for each reference to “nominated partner” substitute “scheme partner”.
- (3) In paragraph (6)(b)(**31**) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (10)(**32**) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (5) In paragraph (11)(**33**) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (6) In paragraph (12)(b)(**34**) for “nominated partner pension” substitute “surviving scheme partner’s pension”.

### **Amendment of regulation S4A**

**36.**—(1) Regulation S4A(**35**) (benefits on death in pensionable employment after pension under regulation E2A becomes payable) is amended as follows.

- (2) In paragraph (7) for each reference to “nominated partner” substitute “scheme partner”.
- (3) In paragraph (9)(b) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (12) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”.
- (5) In paragraph (13) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (6) In paragraph (14) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (7) In paragraph (15) for “nominated partner” substitute “scheme partner”.

### **Amendment of regulation T6**

- 37.**—(1) Regulation T6 (loss of rights to benefits) is amended as follows.
- (2) In paragraph (1A) for “nominated partner” substitute “scheme partner”.

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(31) Paragraph (6) was amended by regulation 60 of [S.I. 2008/654](#).

(32) Paragraph (10) was inserted by regulation 60 of [S.I. 2008/654](#).

(33) Paragraph (11) was inserted by regulation 60 of [S.I. 2008/654](#).

(34) Paragraph (12) was inserted by regulation 60 of [S.I. 2008/654](#).

(35) Regulation S4A was inserted by regulation 61 of [S.I. 2008/654](#).

(3) After paragraph (2), insert—

“(3) If, on or after 1st April 2019, a member is—

- (a) charged with an offence; or
- (b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member’s benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (5) to (10) of this regulation.

(4) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (1A) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under that paragraph, the Secretary of State may make a suspension decision in accordance with paragraphs (5), (6), and (11) to (14) of this regulation.

(5) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

- (a) which the member is in receipt of, or becomes entitled to,
- (b) in respect of a member,

under these Regulations.

(6) If the Secretary of State makes a suspension decision under paragraph (3) or (4), that decision will continue to apply—

- (a) until the date of any direction made by the Secretary of State under this regulation; or
- (b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(7) Paragraph (8) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (3) in respect of a member otherwise entitled to the payment of a pension under Part E or L of these Regulations; and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(8) The Secretary of State will pay to the member described in paragraph (7) an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation T8 (interest on late payment of benefits).

(9) Paragraph (10) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (3) in respect of a member otherwise entitled to the payment of a pension under Part E or L of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(10) The Secretary of State will pay to the member described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation T8 (interest on late payment of benefits).

(11) Paragraph (12) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (4); and

- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1A) in respect of the benefits to which that decision relates.
- (12) The Secretary of State will pay to the person to whom paragraph (4) applies an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation T8 (interest on late payment of benefits).
- (13) Paragraph (14) applies if—
  - (a) the Secretary of State makes a suspension decision under paragraph (4); and
  - (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.
- (14) The Secretary of State will pay to the person described in paragraph (4) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation T8 (interest on late payment of benefits).”.

#### **Amendment of regulation U1A**

**38.** In regulation U1A (determinations by medical practitioners), in paragraph (1), in sub-paragraph (b) omit “, regulation G11(2)”.

#### **Amendment of regulation U3**

**39.** In regulation U3 (accounts and actuarial reports), in paragraph (9) before “An employing authority”, insert “If the Secretary of State so requests,”.

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

- 40.**—(1) Schedule 2 (medical and dental practitioners) is amended as follows.
- (2) In paragraph 3 (meaning of pensionable earnings), in sub-paragraph (2), in paragraph (e)**(36)**, before “health-related functions” insert “payments made to such a person by an employing authority or a local authority in respect of”.
  - (3) In paragraph 10 (contributions to this Section of the scheme)—
    - (a) in sub-paragraph (1A)**(37)** for—
      - (aa) paragraph (b) substitute “(b) in respect of each scheme year from 2015-2016, table 2.”;
      - (bb) the heading to table 2 substitute “Scheme Years from 2015-2016”.
    - (b) in sub-paragraph (2S), for “NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year”**(38)** substitute “NDPS is the number of days of dentist performer’s service in the scheme year”.
  - (4) Omit paragraph 16A (increased surviving civil partner’s pension).
  - (5) In paragraph 16B**(39)** (increased dependent surviving nominated partner’s pension) for the words “nominated partner’s pension” in each place they occur substitute “scheme partner’s pension”.
  - (6) In paragraph 23 (accounts and actuarial reports) after sub-paragraph (14)**(40)** insert—

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**(36)** Inserted by regulations 2 and 21(1) and (4)(c) of [S.I. 2013/413](#).

**(37)** As inserted by regulations 2 and 15(1) and (2) of [S.I. 2015/96](#).

**(38)** Sub-paragraph (2S) was inserted by regulation 16(1) and (7)(b) of [S.I. 2014/570](#).

**(39)** Paragraph 16B was inserted by regulation 65(1) and (13) of [S.I. 2008/654](#).

**(40)** Sub-paragraph (14) was inserted by regulations 2 and 12(1) and (7) of [S.I. 2011/2586](#).

“(14A) If an employing authority, GDS or PDS contractor does not provide the statement referred to in sub-paragraph (12) in accordance with sub-paragraph 14(a), the member contributions in respect of the members of that employing authority or contractor referred to in sub-paragraphs (12)(a) to (e), will be payable at the maximum contribution percentage rate specified in column 2 of table 2 in paragraph 10(1A) of this Schedule based on estimated pensionable pay as determined by the host Board.”.

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

**41.** In Schedule 2B (independent providers)(**41**), for paragraph 41 substitute—

“**41.** If an Independent Provider fails to pay an employer contribution surcharge, that provider is liable to pay the supplementary charge and interest referred to in regulation T9 and interest is to continue to accrue on the late paid surcharge for so long as it remains unpaid and further supplementary charges may be levied in respect of it.”.

## **PART 3**

### **Amendments to the National Health Service Pension Scheme Regulations 2008**

#### **General**

**42.** The National Health Service Pension Scheme Regulations 2008(**42**) are amended in accordance with this Part.

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

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

(2) Omit the paragraph reference “(2)” immediately preceding the definition of “contracting-out requirements” and re-number existing paragraph (2A) as paragraph (2).

(3) In paragraph (1) (following the amendments made by paragraph (2) of this regulation)—

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

““the 2016 Order” means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016(**43**);

“section 9(2B) rights” has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015(**44**);”;

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

““the health service” has the meaning given in section 275 of the 2006 Act;”;

(c) omit the definition of “contracting-out requirements”;

(d) for the definition of “NHS standard sub-contract”(**45**) substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for

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(41) Schedule 2B was inserted by regulation 17 of [S.I. 2014/570](#).

(42) [S.I. 2008/653](#). Relevant amending instruments are [S.I. 2009/2446](#), [2010/492](#), [2013/413](#), [2014/570](#), [2015/96](#), [2016/245](#) and [2017/275](#).

(43) [S.I. 2016/252](#).

(44) [S.I. 2015/1677](#).

(45) This definition was inserted by regulation 21(e) of [S.I. 2016/245](#) and amended by regulation 12(1) and (4) of [S.I. 2017/275](#).

the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”(46);”;

(e) for the definition of “officer” substitute—

““officer” means a person employed by an employing authority including a GP Registrar and a non-GP provider, but does not include—

- (a) a GP performer;
- (b) a dentist performer;
- (c) a person engaged under a contract for services;”.

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

44. In regulation 2.A.2 (meaning of “pensionable service”), in paragraph (2), in sub-paragraph (c), in paragraph (i)

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

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

45. In regulation 2.C.2 (contribution rate for members other than non-GP providers), in paragraph (2)(47), for—

- (a) “of the scheme years 2015-16 to 2018-2019 inclusive” substitute “scheme year from 2015-16”;
- (b) the heading to the table substitute “Scheme Years from 2015-16”.

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

46. In regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers), in paragraph (20), for—

- (a) “in respect of the 2015-2016 to 2018-2019 scheme years, table 2” substitute “in respect of each scheme year from 2015-2016, table 2”;
- (b) the heading to table 2, substitute “Scheme Years from 2015-2016”.

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

47. In regulation 2.C.5 (contributions by employing authorities: general), in paragraph (4), for “14.3%” substitute “20.6%”(48).

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

48. In regulation 2.C.18 (repayment of contributions), in paragraph (3), for sub-paragraph (a) substitute—

- “(a) such part of any contributions equivalent premium paid in respect of the person under section 55 of the 1993 Act or article 3 of the 2016 Order, and”.

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(46) Electronic copies of the guidance referred to in that definition can be obtained from [www.england.nhs.uk](http://www.england.nhs.uk). E-mail: [england.contactus@nhs.net](mailto:england.contactus@nhs.net). Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

(47) As amended by regulations 17 and 22(1) and (2) of [S.I. 2015/96](#).

(48) Paragraph (4) was amended by regulations 17 and 26 of [S.I. 2015/96](#).

### **Amendment of regulation 2.D.22**

**49.**—(1) Regulation 2.D.22 (guaranteed minimum pensions etc) is amended as follows.

(2) In paragraph (7), in sub-paragraph (a), for “rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

(3) In paragraph (8), in sub-paragraph (b), for “his rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

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

**50.** In regulation 2.E.1 (surviving adult dependants’ pensions), in paragraph (2), for “nominated partner” substitute “scheme partner”.

### **Amendments of regulation 2.E.2**

**51.** For regulation 2.E.2 (meaning of “surviving nominated partner”) substitute—

#### **“Meaning of “surviving scheme partner”**

**2.E.2.** In this Part, a person (P) is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

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

**52.** In regulation 2.E.3 (amount of pensions under regulation 2.E.1: active and non-contributing members), in paragraph (5) —

- (a) for “55(2)” substitute “55”;
- (b) after “Act” insert “or article 3 of the 2016 Order”.

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

**53.** In regulation 2.E.6 (recent leavers), in paragraph (2)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

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

**54.** In regulation 2.E.9 (meaning of “dependent child”), in paragraph (2)—

- (a) in sub-paragraph (d)—
  - (i) for “regulation 2.E.2(1)(b)(i)” substitute “regulation 2.E.2(a) and (b)”;
  - (ii) for each reference to “nominated partner” substitute “scheme partner”;
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”;

(c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

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

**55.**—(1) Regulation 2.J.7 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5), in sub-paragraph (a) for “nominated partner” substitute “surviving scheme partner”.

(3) after paragraph (7), insert—

“(8) If, on or after 1st April 2019, a member is—

- (a) charged with an offence; or
- (b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member’s benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (10) to (15) of this regulation.

(9) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (5) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under paragraph (4), the Secretary of State may make a suspension decision in accordance with paragraphs (10), (11), and (16) to (19) of this regulation.

(10) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

- (a) which the member is in receipt of, or becomes entitled to,
- (b) in respect of a member,

under these Regulations.

(11) If the Secretary of State makes a suspension decision under paragraph (8) or (9), that decision will continue to apply—

- (a) until the date of any direction made by the Secretary of State under this regulation; or
- (b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(12) Paragraph (13) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 2.D (members’ retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(13) The Secretary of State will pay to the member described in paragraph (12) an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(14) Paragraph (15) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 2.D (members’ retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.



(15) The Secretary of State will pay to the member described in paragraph (14) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(16) Paragraph (17) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (4) in respect of the benefits to which that decision relates.

(17) The Secretary of State will pay to the person to whom paragraph (9) applies an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(18) Paragraph (19) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(19) The Secretary of State will pay to the person described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).”.

#### **Amendment of regulation 2.J.14**

**56.**—(1) Regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates) is amended as follows.

(2) For paragraph (2) substitute—

“(2) As regards a GMS or a PMS practice or an APMS contractor, in respect of each scheme year, the practice or contractor must provide the host Board with a statement of estimated pensionable earnings in respect of any non-GP provider that is a GMS or PMS practice or APMS contractor or who assists in the provision of NHS services provided by that GMS or PMS practice or an APMS contractor, at least 1 month before the beginning of that scheme year.”.

(3) For paragraph (12) substitute—

“(12) If the Secretary of State so requests, in respect of each scheme year an employing authority must, 1 month before the beginning of that scheme year, and in a manner prescribed by the Secretary of State, provide the Secretary of State with a statement of estimated total contributions due under regulations 2.C.1, 2.C.5 and 2.C.8.”.

#### **Amendment of regulation 2.K.20**

**57.** In regulation 2.K.20 (nominations and notices accepted by the Secretary of State under the 1995 Regulations to apply under Chapter 2.E of these Regulations)<sup>(49)</sup>, in paragraph (2) omit subparagraph (c).

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<sup>(49)</sup> Chapter 2.K was inserted by regulation 52 of [S.I. 2009/2446](#).

### **Amendment of regulation 2.L.2**

**58.** In regulation 2.L.2 (nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 2.E of these Regulations)(**50**), in paragraph (2) omit subparagraph (c).

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

**59.**—(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 2016 Order” means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016(**51**);

“section 9(2B) rights” has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015(**52**);”.

(3) Omit the definition of “contracting-out requirements”.

(4) For the definition of “NHS standard sub-contract”(**53**) substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance” (**54**);”.

(5) For the definition of “officer” substitute—

““officer” means a person employed by an employing authority including a GP Registrar and a non-GP provider, but does not include—

- (a) a GP performer;
- (b) a dentist performer;
- (c) a person engaged under a contract for services;”.

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

**60.** In regulation 3.A.3 (meaning of “pensionable service”), in paragraph (2), in subparagraph (c), in paragraph (i)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

### **Amendment of regulation 3.A.7**

**61.** In regulation 3.A.7 (meaning of “pensionable earnings”), in paragraph (2), in subparagraph (e)(**55**), after “any sums paid” insert “by an employing authority or a local authority”.

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(50) Chapter 2.L was inserted by regulations 16 and 35 of [S.I. 2010/492](#).

(51) [S.I. 2016/252](#).

(52) [S.I. 2015/1677](#).

(53) This definition was inserted by regulations 20 and 39(e) of [S.I. 2016/245](#) and amended by regulations 10 and 22(4) of [S.I. 2017/275](#).

(54) Electronic copies of the guidance referred to in that definition can be obtained from [www.england.nhs.uk](http://www.england.nhs.uk). E-mail: [england.contactus@nhs.net](mailto:england.contactus@nhs.net). Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

(55) Sub-paragraph (e) was inserted by regulations 22 and 53(1) and (5) of [S.I. 2013/413](#).

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

**62.**—(1) Regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners) is amended as follows.

(2) In paragraph (1), in sub-paragraph (d)(**56**), after “any sums paid” insert “by an employing authority or a local authority”.

(3) In paragraph (4)(**57**), after “2006 Act” insert “pursuant to a contract with an employing authority or a local authority”.

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

**63.** In regulation 3.C.2 (members’ contribution rate)—

(a) in paragraph (16)(**58**) for “NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year” substitute “NDPS is the number of days of dentist performer service in the scheme year”;

(b) in paragraph (22)(**59**)—

(i) for sub-paragraph (b) substitute “(b) in respect of each scheme year from 2015-2016, table 2.”;

(ii) for the heading to table 2 substitute “Scheme Years from 2015-16”.

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

**64.** In regulation 3.C.3 (contributions by employing authorities: general), in paragraph (5), for “14.3%” substitute “20.6%”(60).

### **Amendment of regulation 3.C.16**

**65.** In regulation 3.C.16 (repayment of contributions), in paragraph (3), for sub-paragraph (a) substitute—

“(a) such part of any contributions equivalent premium paid in respect of the person under section 55 of the 1993 Act or article 3 of the 2016 Order, and”.

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

**66.**—(1) Regulation 3.D.18 (guaranteed minimum pensions etc) is amended as follows.

(2) In paragraph (7)(**61**), in sub-paragraph (a) for “rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

(3) In paragraph (8), in sub-paragraph (b) for “his rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

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

**67.** In regulation 3.E.1 (surviving adult dependants’ pensions), in paragraph (2) for “nominated partner” substitute “scheme partner”.

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(56) Sub-paragraph (d) was inserted by regulations 22 and 57(1) and (3) of [S.I. 2013/413](#).

(57) Paragraph (4) was amended by regulations 22 and 57(1) and (5) of [S.I. 2013/413](#) and regulations 20 and 43(1) and (3) of [S.I. 2016/245](#).

(58) As amended by regulation 42 of [S.I. 2014/570](#).

(59) Paragraph 22 was inserted by regulation 42 of [S.I. 2014/570](#) and amended by regulations 17 and 41(1) and (3) of [S.I. 2015/96](#).

(60) As amended by regulations 17 and 42 of [S.I. 2015/96](#).

(61) Paragraph (7) was amended by regulation 103 and paragraph 1 of Schedule 2 of [S.I. 2009/2446](#).

### **Substitution of regulation 3.E.2**

68. For regulation 3.E.2 (meaning of “surviving nominated partner”) substitute—

#### **“Meaning of “surviving scheme partner”**

**3.E.2.** In this Part, a person (P) is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

### **Amendment of regulation 3.E.3**

69. In regulation 3.E.3 (amount of pensions under regulation 3.E.1: active and non-contributing members), in paragraph (5)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

### **Amendment of regulation 3.E.6**

70. In regulation 3.E.6 (recent leavers), in paragraph (2)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

### **Amendment of regulation 3.E.9**

71. In regulation 3.E.9 (meaning of “dependent child”), in paragraph (2)—

- (a) in sub-paragraph (d)—
  - (i) for “regulation 3.E.2(1)(b)(i)” substitute “regulation 3.E.2(a) and (b)”;
  - (ii) for each reference to “nominated partner” substitute “scheme partner”;
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”;
- (c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

### **Amendment of regulation 3.J.7**

72.—(1) Regulation 3.J.7 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5), in sub-paragraph (a) for “nominated partner” substitute “surviving scheme partner”.

(3) After paragraph (7), insert—

- “(8) If, on or after 1st April 2019, a member is—
- (a) charged with an offence; or
  - (b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member's benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (10) to (15) of this regulation.

(9) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (5) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under paragraph (4), the Secretary of State may make a suspension decision in accordance with paragraphs (10), (11), and (16) to (19) of this regulation.

(10) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

- (a) which the member is in receipt of, or becomes entitled to,
- (b) in respect of a member,

under these Regulations.

(11) If the Secretary of State makes a suspension decision under paragraph (8) or (9), that decision will continue to apply—

- (a) until the date of any direction made by the Secretary of State under this regulation; or
- (b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(12) Paragraph (13) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 3.D (members' retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(13) The Secretary of State will pay to the member described in paragraph (12) an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(14) Paragraph (15) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 3.D (members' retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(15) The Secretary of State will pay to the member described in paragraph (14) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(16) Paragraph (17) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (4) in respect of the benefits to which that decision relates.

(17) The Secretary of State will pay to the person to whom paragraph (9) applies an amount equal to the total amount of the benefit payments suspended together with the

interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(18) Paragraph (19) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(19) The Secretary of State will pay to the person described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).”.

#### **Amendment of regulation 3.J.14**

**73.**—(1) Regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates) is amended as follows.

(2) After paragraph (13) insert—

“(13A) If a GMS or PMS practice, an APMS contractor or a GDS or PDS practice does not provide the statement referred to in paragraph (11) in accordance with paragraph 13(a), the member contributions in respect of the members of that practice or contractor referred to in paragraph 11(a) to (e), will be payable at the maximum contribution percentage rate specified in column 2 of table 2 in paragraph (22) of regulation 3.C.2 based on estimated pensionable pay as determined by the host Board.”.

(3) In paragraph (14)(a) before “provide the Secretary of State” insert “if the Secretary of State so requests”.

(4) In paragraph (15) for the first reference to “2 months after the end” substitute “1 month before the beginning”.

#### **Amendment of regulation 3.K.12**

**74.** In regulation 3.K.12 (nominations and notices accepted by the Secretary of State under the 1995 Regulations to apply under Chapter 3.E of these Regulations)(**62**), in paragraph (2) omit subparagraph (c).

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

**75.** In regulation 3.L.2 (nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 3.E of these Regulations)(**63**), in paragraph (2) omit subparagraph (c).

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(62) Chapter 3.K was inserted by regulation 94 of S.I. 2009/2446.

(63) Chapter 3.L was inserted by regulations 16 and 52 of S.I. 2010/492.

## PART 4

### Amendments to the National Health Service Pension Scheme Regulations 2015

#### General

76. The National Health Service Pension Scheme Regulations 2015(64) are amended in accordance with this Part.

#### Amendment of regulation 20

77. In regulation 20 (pensionable service), in paragraph (2), in sub-paragraph (c), in paragraph (i), after “Act”, insert “or article 3 of the 2016 Order”.

#### Amendment of regulation 30

78. In regulation 30 (members’ contributions: employees), in paragraph (3), for—
- (a) “of the scheme years 2015/16 to 2018/19” substitute “scheme year from 2015/16”;
  - (b) the heading to the table substitute “Table Scheme Years from 2015/16”.

#### Amendment of regulation 31

79. In regulation 31 (members’ contributions: practitioners and non-GP providers)—
- (a) in paragraph (3), for “of the scheme years 2015/16 to 2018/19” substitute “scheme year from 2015/16”;
  - (b) in paragraph (9), for the heading to the table substitute “Table Scheme Years from 2015/16”.

#### Amendment of regulation 33

80. In regulation 33 (contributions by employing authorities), in paragraph (1), for “14.3%” substitute “20.6%”.

#### Amendment of regulation 37

81. In regulation 37 (members’ contributions: records and estimates), in paragraph (7), before “An employing authority” insert “If the scheme manager so requests,”.

#### Amendment of regulation 38

82. In regulation 38 (members’ contributions: supplementary: medical practitioners and non-GP providers), in paragraph (3), in sub-paragraph (a) for “NDPS is the number of days of group D service from the date M’s service commenced in the scheme year to the end of the scheme year” substitute “NDPS is the number of days of M’s group D service in the scheme year”.

#### Amendment of regulation 39

83. In regulation 39 (members’ contributions: supplementary: dental practitioners), in paragraph (3), in sub-paragraph (a) for “NDPS is the number of days of dental practitioner service from the date the dental practitioner service commenced in the scheme year to the end of the scheme year” substitute “NDPS is the number of days of dental practitioner service in the scheme year”.

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(64) S.I. 2015/94. Relevant amending instruments are S.I. 2016/245 and 2017/275.

#### **Amendment of regulation 41**

- 84.** In regulation 41 (amount of refund), in paragraph (2), in sub-paragraph (a)—
- (a) for “as is permitted pursuant to section 61” substitute “under section 55”;
  - (b) after “Act”, insert “or article 3 of the 2016 Order”.

#### **Amendment of regulation 110**

- 85.**—(1) Regulation 110 (guaranteed minimum pension etc) is amended as follows.
- (2) In paragraph (8), in sub-paragraph (a) for “rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.
- (3) In paragraph (9), in sub-paragraph (b) for “his rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

#### **Amendment of regulation 113**

- 86.** In regulation 113 (surviving adult dependant pension), in paragraph (2), for sub-paragraph (c) substitute—
- “(c) a surviving scheme partner.”.

#### **Substitution of regulation 114**

- 87.** For regulation 114 (surviving nominated partner) substitute—

##### **“Surviving scheme partner**

- 114.**—(1) A person (P) is the scheme partner of a member if –
- (a) the member and P are living together as if they are husband and wife or civil partners,
  - (b) the member and P are not prevented from marrying or entering a civil partnership,
  - (c) the member and P are financially interdependent or P is financially dependent on the member, and
  - (d) neither the member or P is living with a third person as if they are husband and wife or civil partners.
- (2) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death, the person was the scheme partner of that member.”.

#### **Amendment of regulation 115**

- 88.** In regulation 115 (amount of pension: survivor of active member), in paragraph (8), in sub-paragraph (b), in paragraph (i)—
- (a) for “55(2)” substitute “55”;
  - (b) after “Act”, insert “or article 3 of the 2016 Order”.

#### **Amendment of regulation 118**

- 89.** In regulation 118 (recent leavers), in paragraph (3), in sub-paragraph (a)—
- (a) for “55(2)” substitute “55”;
  - (b) after “Act”, insert “or article 3 of the 2016 Order”.



### **Amendment of regulation 122**

**90.**—(1) Regulation 122 (eligible child), paragraph (2) is amended as follows.

(2) In sub-paragraph (d)—

(a) for “nominated partner” substitute “scheme partner”;

(b) for “regulation 114(1)(b)(i)” substitute “regulation 114(1)(a) and (d)”.

(3) In sub-paragraph (e), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.

(4) In sub-paragraph (f), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.

### **Amendment of Schedule 3**

**91.**—(1) Schedule 3 (administrative matters), in paragraph 12 (forfeiture of rights to benefits) is amended as follows.

(2) In sub-paragraph (5), in paragraph (a) for “nominated partner” substitute “surviving scheme partner”.

(3) After sub-paragraph (7) insert—

“(8) If, on or after 1st April 2019, a member is—

(a) charged with an offence; or

(b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member’s benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (10) to (15) of this regulation.

(9) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (5) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under paragraph (4), the Secretary of State may make a suspension decision in accordance with paragraphs (10), (11), and (16) to (19) of this regulation.

(10) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

(a) which the member is in receipt of, or becomes entitled to,

(b) in respect of a member,

under these Regulations.

(11) If the Secretary of State makes a suspension decision under paragraph (8) or (9), that decision will continue to apply—

(a) until the date of any direction made by the Secretary of State under this regulation; or

(b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(12) Paragraph (13) applies if—

(a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Part 5 (members’ benefits) of these Regulations; and

(b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(13) The Secretary of State will pay to the member described in paragraph (12) an amount equal to the total amount of the benefit payments suspended together with the interest due under paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(14) Paragraph (15) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Part 5 (members' benefits) of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(15) The Secretary of State will pay to the member described in paragraph (14) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(16) Paragraph (17) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (4) in respect of the benefits to which that decision relates.

(17) The Secretary of State will pay to the person to whom paragraph (9) applies an amount equal to the total amount of the benefit payments suspended together with the interest due under paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(18) Paragraph (19) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(19) The Secretary of State will pay to the person described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.”.

### **Amendment of Schedule 10**

**92.** In Schedule 10 (practitioner income), in paragraph 2 (medical practitioner), in Case 5 after “Payments” insert “made by an employing authority or a local authority”.

### **Amendment of Schedule 12**

**93.**—(1) Schedule 12 (practitioner contribution payments) is amended as follows.

(2) In paragraph 4 (information to be provided to scheme manager), after sub-paragraph (4) insert—

“(5) If an employing authority, GDS or PDS contractor does not provide the statement referred to in sub-paragraph (1) in accordance with sub-paragraph (3)(a), the member contributions in respect of the members of that employing authority or contractor referred to in sub-paragraph (1)(a) to (e), will be payable at the maximum contribution percentage

rate specified in column 2 of the table in paragraph (9) of regulation 31 based on estimated pensionable pay as determined by the host Board.”.

(3) In paragraph 10 (recovery of unpaid contributions), in sub-paragraph (2)(b), for “such a deduction must be to the member’s advantage and is subject to the member’s consent” substitute “such a deduction may only be made where the Secretary of State has notified the member of an intention to do so”.

### **Amendment of Schedule 15**

**94.** In Schedule 15 (definitions)—

- (a) after the expression “the 2013 Act” in Column 1 insert a new expression “the 2016 Order” and for the corresponding entry in Column 2 insert “means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016<sup>(65)</sup>”;
- (b) for the entry in Column 2 corresponding to the expression “NHS standard sub-contract”<sup>(66)</sup>, substitute “a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”<sup>(67)</sup>”;
- (c) after the expression “scheme year” in Column 1 insert a new expression “section 9(2B) rights” and for the corresponding entry in Column 2 insert “has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015”.

## **PART 5**

### **Amendments to the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000**

#### **General**

**95.** The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000<sup>(68)</sup> are amended in accordance with this Part.

#### **Amendment of regulation 2**

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

(2) In paragraph (1), in the definition of “dependant”<sup>(69)</sup>, in sub-paragraph (d), for “nominated partner” substitute “scheme partner”.

(3) For paragraphs (1A) to (1C)<sup>(70)</sup> substitute—

“(1A) A person (P) is the scheme partner of a participator if —

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<sup>(65)</sup> [S.I. 2016/252](#).

<sup>(66)</sup> This definition was inserted by regulations 29 and 49 (1) and (2) of [S.I. 2017/275](#).

<sup>(67)</sup> Electronic copies of the guidance referred to in that definition can be obtained from [www.england.nhs.uk](http://www.england.nhs.uk). E-mail: [england.contactus@nhs.net](mailto:england.contactus@nhs.net) Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

<sup>(68)</sup> [S.I. 2000/619](#). Relevant amending instruments are [S.I. 2008/655](#) and [2015/96](#).

<sup>(69)</sup> This definition was inserted by regulation 2(1) and (2)(a) of [S.I. 2008/655](#) and amended by regulations 53 and 54(1) and (2) (d) of [S.I. 2015/96](#).

<sup>(70)</sup> Paragraphs (1A) to (1C) were inserted by regulations 53 and 54(1) and (3) of [S.I. 2015/96](#).

- (a) the participator and P are living together as if they were husband and wife or civil partners,
- (b) the participator and P are not prevented from marrying or entering into a civil partnership,
- (c) the participator and P are financially interdependent or the person is financially dependent on the contributor, and
- (d) neither the participator nor P is living with a third person as if they were husband and wife or as if they were civil partners.

(1B) A person is a surviving scheme partner of a participator if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the participator's death, the person was the scheme partner of that participator."

#### **Amendment of regulation 15**

**97.** In regulation 15 (payments by the Secretary of State), in paragraph (3), in sub-paragraphs (a) and (b)(71) for each reference to "nominated partner" substitute "surviving scheme partner".

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

**98.** In Schedule 2 (pension sharing on divorce or nullity of marriage), in paragraph 11 (payment of lump sum on death), in sub-paragraph (2)(72) for each reference to "nominated partner" substitute "surviving scheme partner".

## **PART 6**

### **Amendments to the National Health Service (Injury Benefits) Regulations 1995**

#### **General**

**99.** The National Health Service (Injury Benefits) Regulations 1995(73) are amended in accordance with this Part.

#### **Amendment of regulation 2**

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

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

““scheme partner” has the meaning given in regulation 2D;”;

““surviving scheme partner” has the meaning given in regulation 2E;”.

(3) In the definition of “surviving partner”(74) for “nominated partner” substitute “scheme partner”.

#### **New regulations 2D and 2E**

**101.** After regulation 2C (meaning of “average remuneration”)(75) insert—

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(71) The expression “nominated partner” was inserted into sub-paragraphs (a) and (b) by regulation 2(1) and (12)(a) of S.I. 2008/655. A further relevant amendment to sub-paragraph (b) was made by regulations 53 and 62(1) and (3)(b) of S.I. 2015/96.

(72) The expression “nominated partner” was inserted by regulation 2(1) and (16)(d) of S.I. 2008/655.

(73) S.I. 1995/866. Relevant amending instruments are S.I. 2008/655 and 2015/96.

(74) The definition of “surviving partner” was inserted by regulation 3(1) and (2)(b) of S.I. 2008/655.

(75) Regulation 2C was inserted by regulations 47 and 50 of S.I. 2015/96.

### **“Meaning of scheme partner**

**2D.** A person (person B) is the “scheme partner” of a person to whom these regulations apply (person A) if—

- (a) person A and person B are living together as if they were husband and wife or civil partners,
- (b) person A and person B are not prevented from marrying or entering into a civil partnership,
- (c) person A and person B are financially interdependent or person B is financially dependent on person A, and
- (d) neither person A nor person B is living with a third person as if they were husband and wife or civil partners.

### **Meaning of surviving scheme partner**

**2E.** A person (person B) is a “surviving scheme partner” of a person to whom these regulations apply (person A) if the Secretary of State is satisfied that for a continuous period of at least two years, ending with person A’s death, person B was the scheme partner of person A.”

### **Amendment of regulation 7**

**102.** In regulation 7 (surviving partner allowances), for paragraph (3)(76) substitute—

“(3) Except if paragraph (3A) applies, a surviving partner is not entitled to receive an allowance—

- (a) if the marriage took place or the civil partnership was formed after the later of the date on which—
  - (i) the deceased last ceased to be employed as person to whom these Regulations apply; or
  - (ii) the earning ability of the deceased was permanently reduced as a result of the injury or disease; or
- (b) if the Secretary of State is not satisfied that the deceased’s partner was the deceased’s scheme partner for a continuous period of at least two years ending with the later of the dates referred to in (a).”.

### **Amendment of regulation 8**

**103.** In regulation 8 (child’s allowance), in paragraph (2), in sub-paragraph (c), for “nominated partner”(77) substitute “surviving scheme partner”.

### **Amendment of regulation 9**

**104.** In regulation 9 (dependent relative’s allowance), in paragraph (1), in sub-paragraph (a), for “nominated partner’s”(78) substitute “surviving scheme partner’s”.

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(76) Paragraph (3) was last substituted by regulation 3(1) and (6) of [S.I. 2008/655](#).

(77) The expression “nominated partner” was inserted by regulation 3(1) and (7)(a) of [S.I. 2008/655](#).

(78) The expression “nominated partner’s” was inserted by regulation 3(1) and (8)(a) of [S.I. 2008/655](#).

### **Amendment of regulation 11**

**105.** In regulation 11 (lump sum payment on death), in paragraph (1), in sub-paragraph (b), for “nominated partner”(79) substitute “surviving scheme partner”.

## **PART 7**

### **Amendments to the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015**

#### **General**

**106.** The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015(80) are amended in accordance with this Part.

#### **Amendment of regulation 5**

- 107.** In regulation 5 (nominations, notices and declarations), in paragraph (1), in the Table—
- (a) in column 1, omit in full—
    - (i) the entry starting “A notice given for the purposes of regulation G14 of the 1995 Regulations”;
    - (ii) the entry starting “A declaration made for the purpose of regulation 2.E.2 or 3.E.2 of the 2008 Regulations”;
  - (b) in column 2, omit in full the entry starting “A declaration made for the purpose of regulation 114 of the 2015 Regulations.”.

## **PART 8**

### **Miscellaneous**

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

**108.—**(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—

- (a) served in an employment or office which qualified the person to participate in the benefits provided under the regulations amended by these Regulations; and
- (b) ceased to serve in that employment or office before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of Part 2 or Part 3 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 will not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) is to be given in writing and 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.

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(79) The expression “nominated partner” was inserted by regulation 3(1) and (9)(b) of [S.I. 2008/655](#).

(80) [S.I. 2015/95](#), to which there are amendments not relevant to this instrument.

Signed by authority of the Secretary of State for Health and Social Care.

27th February 2019

*Stephen Hammond*  
Minister of State for Health,  
Department of Health and Social Care

We consent

28th February 2019

*Rebecca Harris*  
*Jeremy Quin*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## 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 Pension Scheme Regulations 2015 (S.I. 2015/94) (“the 2015 Regulations”), the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) (“the AVC Regulations”), the National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) (“the Injury Benefits Regulations”) and the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015 (S.I. 2015/95) (“the Transitional Regulations”).

The Regulations come into force on 1st April 2019, although regulation 1(3) provides for certain provisions to come into force on 6th April 2019 and regulation 1(4) to (10) provides for certain provisions to take effect from an earlier date. Section 12(1) of the Superannuation Act 1972 (c.11) and section 3(3)(b) of the Public Service Pensions Act 2013 (c. 25) provide that Scheme Regulations may make retrospective provision.

The Regulations are divided into eight Parts, amending the 1995 Regulations, the 2008 Regulations, the 2015 Regulations, the AVC Regulations, the Injury Benefits Regulations and the Transitional Regulations respectively.

The following are the main changes brought about by this instrument.

First it amends the provisions relating to contributions.

The changes regarding contributions are twofold, in that they affect both employee and employer contributions.

In particular, regulations 4, 40(3)(a), 45, 46, 63(b), 78 and 79 provide that the current rate of employee contributions will continue. The 1995 Regulations, the 2008 Regulations and the 2015 Regulations currently provide the contribution rates from Scheme year 2015-16 to Scheme year 2018-19. These regulations remove the reference to Scheme year 2018-19 to make clear that the contribution rates will apply for all Scheme years from 2015-16.

Regulations 5, 47, 64 and 80 increase the employer contribution rate from 14.3% to 20.6%.

Second the instrument amends the provisions relating to survivor benefits. In particular the requirement that a cohabiting surviving partner must have been nominated by the member in order to qualify for a surviving nominated partner’s pension (i.e. they must have been a “nominated partner”) is removed. There remain (unchanged) a number of conditions that a cohabiting surviving partner must satisfy in order to qualify for a “survivor pension”. The removal of the nomination requirement has retrospective effect and starts on 1st April 2008; this is the date that survivor pensions were introduced for unmarried partners.

The main changes in respect of this are as follows.

Regulation 18 replaces the current provisions in regulation G14 of the 1995 Regulations regarding eligibility for a surviving nominated partner’s pension (in particular the requirement that the Secretary of State is in receipt of a nomination is removed), with provisions regarding the eligibility of a surviving scheme partner to receive a surviving scheme partner’s pension. Regulation 3(3) inserts the definitions “scheme partner” and “surviving scheme partner” into the 1995 Regulations. Regulations 10, 12, 13, 21(b), 22 to 26, 32(3), 33(3), 34 to 36, 37(2) and 40(5) make consequential changes i.e. the replacement of references to “nominated partner” with “scheme



partner”, “nominated partner’s pension” with “scheme partner’s pension” and “nominated partner pension” with “surviving scheme partner pension”.

Regulations 51 and 68 introduce a new definition of “surviving scheme partner” into the 2008 Regulations in place of “surviving nominated partner” and consequential changes are provided in regulations 50, 54, 55(2), 67, 71 and 72(2) to replace references to “nominated partner” with “scheme partner” or “surviving scheme partner” as appropriate.

Similarly, regulation 87 introduces a new provision setting out the requirement to be a “surviving scheme partner” (instead of a “nominated partner”) into the 2015 Regulations and regulations 86, 90 and 91(2) makes consequential changes to terminology.

In the 1995 Scheme only, survivor pensions for nominated partners and spouses of female members are generally based on the member’s service from 6th April 1988 onwards. As a consequence, an additional survivor pension (for dependent surviving spouses and co-habiting partners) based on the member’s service before that date may be available, if certain qualifying criteria are met. Regulation G15 of the 1995 Regulations provides for this additional survivor pension. Regulation 19 makes consequential amendment to this to reflect the removal of the nomination requirement in regulation G14 but the nomination requirement in respect of the additional survivor pension remains in regulation G15.

Provisions that allow a partner nomination made under the 1995 Regulations to have effect under the 2008 Regulations are removed by regulations 57, 58, 74 and 75.

Further consequential amendments relating to survivor benefits are also made by regulations 96 to 98 (the AVC Regulations), regulations 100 to 105 (the Injury Benefits Regulations) and regulation 107 (the Transitional Regulations).

The third main purpose of this instrument is to provide the survivors of civil partners and same sex spouses with the same pension as widows, in the 1995 Regulations. The amendments are made with retrospective effect: to 5th December 2005 for civil partners (the date civil partnerships were introduced) and to 13th March 2014 for same sex couples (the date marriage of same sex couples was introduced).

Survivor benefits for civil partners and same sex spouses are already the same as opposite sex spouses in the 2008 Regulations and the 2015 Regulations; therefore amendments are not being made to those regulations. Under regulation A4 of the 1995 Regulations, the provisions relating to civil partnerships apply to same sex spouses with effect from 13th March 2014; therefore amendments are only necessary to the provisions regarding civil partners.

The main changes in respect of this are as follows.

Survivor benefits for same sex couples are the same as for widows, with a number of variations. This instrument removes those variations.

In particular, regulation 14 removes the provision that provides that a member’s service before 6th April 1988 is disregarded for the purposes of calculating survivor pensions for civil partners or same sex spouses.

Regulation 15 removes the requirement for a member to nominate their civil partner or same sex spouse to receive an additional survivor’s pension in respect of that service as that is unnecessary.

Regulations 16, 17 and 40(4) remove further provisions in relation to purchasing a survivor pension for service before 6th April 1988, again because these are no longer necessary. Regulations 20, 21(a) and (c), 32(2), 33(2) and 38 make further consequential changes.

The fourth main purpose of this instrument is to amend the provisions regarding forfeiture of pension. The 1995 Regulations, the 2008 Regulations and the 2015 Regulations include provisions giving the Secretary of State power to forfeit a right to pension and other benefits where a member (or their beneficiary) has been convicted of certain offences. Regulations 37(3), 55(3), 72(3) and 91(3) amend these provisions to give the Secretary of State further power to suspend a right to pension

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benefits prior to a forfeiture decision, where a member or beneficiary has been charged with, or convicted of, an offence and the Secretary of State is of the opinion the charge or conviction relates to an offence which may lead to benefits being forfeited. In circumstances where benefits otherwise due for payment are suspended, the amendments also contain provisions regarding the payment of those benefits plus interest where there is subsequently no forfeiture. Where the amount suspended is greater than any amount forfeited, payment of the difference between the two, together with interest will be made.

The fifth main purpose of this instrument is to exempt certain pay increases from final pay control charges. This is in respect of the 1995 Regulations and is achieved by regulation 6.

Regulation D3 of the 1995 Regulations (which is a final salary scheme), contains provisions regarding final pay controls, the aim of which is to protect the pension scheme from excessive pensionable pay increases for members nearing retirement. The pay controls are not intended to capture pay increases which have been awarded under an agreement between the NHS and Trade Unions, known as the Framework agreement on the reform of Agenda for Change. Regulation 6 of this instrument makes that clear.

The sixth main purpose of this instrument is to reflect changes to provisions regarding the contracting-out of scheme members from the Additional State Pension Scheme. The Pensions Act 2014 made various amendments to the legislation regarding contracting-out; in particular these amendments provided for the end of contracting-out with effect from 6th April 2016 and the preservation of contracting-out rights earned by members up to that date, although some of the provisions remained in force for a transitional period, pursuant to the Pensions Act 2014 (Savings) Order 2015, until 6th April 2019. This instrument now amends the 1995 Regulations, the 2008 Regulations and the 2015 Regulations to reflect the end of the transitional period.

The main changes in respect of this are as follows.

Regulations 3(2), 43(3)(a), 59(2), 94(a) insert a definition of the “2016 Order” into the 1995 Regulations, the 2008 Regulations and the 2015 Regulations.

Regulations 11, 28, 29, 31, 44, 48, 52, 53, 60, 65, 69, 70, 77, 84, 88 and 89 are amended to ensure that the provisions relating to the payment of Contribution Equivalent Premiums are made in accordance with that legislation.

Section 9(2B) of the Pensions Schemes Act 1993 set out members’ rights in respect of contracted-out service after 5th April 1997. Those rights are now defined in the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015. Regulations 3(7), 43(3)(a), 49, 66, 85 and 94(c) insert a revised definition of “section 9(2B) rights” and update related references to reflect this updated legislation.

Regulation 3(4) inserts a revised definition of “contracting-out requirements” in the 1995 Regulations to reflect updated legislation. This definition is used in the 1995 Regulations in regulations E1, E2, E2A and L1 and these are amended by regulations 7 to 9 and 30. The term is no longer used in the 2008 Regulations and accordingly is removed by regulation 43(3)(c) and 59(3).

Regulation 27 amends the definition of “contracting-out conditions” in the 1995 Regulations to refer to relevant updated legislation.

These regulations also amend certain other definitions and clarify certain provisions. The main changes in this respect are as follows.

To update the definition of NHS standard sub-contract and refer to up-to-date guidance (regulations 3(5), 43(3)(d), 59(4), 94(b)).

To provide that where particular practices and contractors do not provide a statement of the annual estimated pension contributions of some of its practitioners in accordance with the requirements in the Regulations, those particular practitioners will pay contributions at the highest level, based on estimated pensionable pay as determined by the host Board. The schemes have arrangements in

place in practice if it transpires that a member has paid too high a rate as a result (regulations 40(6), 73(2), 93(2)).

Regulations 40(3)(b), 63(a), 82 and 83 substitute a new definition for how the number of days of dentist performer service (and in the 2015 regulations, practitioners and non-GP provider service) (NDPS) is calculated. The scheme Regulations are now clear that NDPS is calculated by reference to the number of days of pensionable service in the scheme year. These changes are retrospective to reflect how the calculation has always been carried out. No one will be detrimentally affected by this change.

Regulations 39, 56(3), 73(3) and 81 ensure that employing authorities are only required to provide statements of estimated contributions if the Secretary of State or the scheme manager (as the case may be) requests it rather than the requirement being mandatory. The changes do not extend to GPs or Independent Providers.

Provisions regarding pensionable earnings are clarified so that certain payments (in respect of health related functions exercised under section 75 of the 2006 Act), are pensionable if they are made by an employing authority or a local authority (regulations 40(2), 61, 62(2) and 92).

Provisions in the 1995 Regulations regarding the payment of the supplementary charge on the late payment of employer contribution surcharges (regulation 41) are substituted to refer to “further” supplementary charges instead of “a” supplementary charge.

To remove the definition of CCT in the 1995 Regulations as this is no longer necessary (regulation 3(8)).

To amend the definition of officer in the 1995 Regulations and 2008 Regulations to reflect the definition in the 2015 Regulations (regulations 3(6), 43(3)(e), 59(5)).

To amend the provisions in the 2008 Regulations regarding the provision of statements of pensionable earnings (regulation 56(2)). The provisions clarify that the GMS, PMS or APMS contractor must provide a statement of estimated pensionable earnings for any non-GP provider to the host Board.

To amend the provisions in the 2008 Regulations regarding when employing authorities must provide the Secretary of State with statements of estimated contributions (regulation 73(4)). This is now one month before the beginning of each scheme year and not two months after the end of each scheme year.

To remove superfluous paragraph numbering in the 2008 Regulations (regulation 43(2)).

To insert a definition of “the health service” into the 2008 Regulations (regulation 43(3)(b)).

To amend a provision in the 2015 Regulations to provide that the scheme may recover arrears of contributions from benefits on retirement provided that it notifies the member. There is no longer the requirement to seek consent. This makes the 2015 Regulations consistent with the 1995 and 2008 Regulations (regulation 93(3)).

Part 8 provides that deferred members or members who are in receipt of a relevant benefit who may be detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice in writing within six months of the coming into force of these Regulations (regulation 108).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.