
STATUTORY INSTRUMENTS

2013 No. 413

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service Pension Scheme,
Additional Voluntary Contributions and Injury
Benefits (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>25th February 2013</i>
<i>Laid before Parliament</i>		<i>4th March 2013</i>
<i>Coming into force</i>	- -	<i>1st April 2013</i>

The Secretary of State, with the consent of the Treasury, makes the following Regulations in exercise of the powers conferred by sections 10(1) and (2), 12(1), (2) and (4) and 24 of, and Schedule 3 to, the Superannuation Act 1972(1).

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

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations 2013.

(2) These Regulations come into force on 1st April 2013 and, save as provided in paragraphs (3) to (6), have effect from that date.

(3) The following regulations have effect from 12th February 2007—

(a) regulation 78; and

(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 12(2) was amended by section 10(1) of the 1990 Act. As to Treasury consent, see section 10(1) of the Superannuation Act 1972 and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

- (b) regulation 80.
- (4) The following regulations have effect from 1st April 2008—
 - (a) regulations 10 to 12;
 - (b) regulation 26;
 - (c) regulation 39;
 - (d) regulation 41;
 - (e) regulation 52;
 - (f) regulation 67; and
 - (g) regulation 68.
- (5) The following regulations have effect from 1st March 2013—
 - (a) regulation 3(2) (except the definitions of “foundation trainee” and “specialist trainee in general practice”) and (5)(b);
 - (b) regulation 5(3);
 - (c) regulation 6;
 - (d) regulation 25(2) (except the definition of “NHS 111 services”) and (4)(b);
 - (e) regulation 29;
 - (f) regulation 30;
 - (g) regulation 51(2) (except the definitions of “foundation trainee” and “NHS 111 services”) and (5)(b);
 - (h) regulation 60; and
 - (i) regulation 61 (except paragraph (6)).
- (6) The following regulations have effect from 31st March 2013—
 - (a) regulation 82(c);
 - (b) regulation 83;
 - (c) regulation 84;
 - (d) regulation 85(2) and (4);
 - (e) regulation 86;
 - (f) regulation 87;
 - (g) regulation 88; and
 - (h) regulation 89.

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

Part 2: General

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

(2) S.I. 1995/300, as amended by S.I. 1997/80 and 1888, 1998/666 and 2216, 2000/605, 2001/1428 and 3649, 2002/561 and 2469, 2003/631 and 2322, 2004/665 and 696, 2005/661 and 3074, 2006/600 and 2919, 2007/2054 and 3280, 2008/654 and 2263, 2009/381, 1298 and 2466, 2010/492 and 1634, 2011/591 and 2586, 2012//610 and as modified by S.I. 1996/971.

Amendment of regulation A2

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

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

““the 2008 Act” means the Pensions Act 2008(3);”;

““the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(4);”;

““automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act;”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14(5) of those Regulations);”;

““foundation trainee” means a dentist performer who is employed as a foundation trainee as a consequence of a placement arrangement made by a local postgraduate dental dean or a director of postgraduate dental education;” and

““specialist trainee in general practice” means a GP Registrar and “GP Registrar” means a medical practitioner who is being trained in general practice by a general medical practitioner who is approved under section 34I(1)(c) of the Medical Act 1983 for the purpose of providing training under that Act;”.

(3) In the definition of—

(a) “APMS contract”(6) and “APMS contractor”(7) for—

(i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and

(ii) “section 83(2)(b)” substitute “section 83(2)”;

(b) “dentist performer”(8), in paragraph (c)—

(i) omit “a Primary Care Trust or”,

(ii) in sub-paragraph (i), omit “in the case of England, section 99(2) of the 2006 Act or, in the case of Wales,”, and

(iii) in sub-paragraph (ii), for “vocational trainee” substitute “foundation trainee” and for “vocational training” substitute “foundation training”;

(c) “employing authority”(9)—

(i) omit paragraphs (za) and (bb),

(ii) in paragraph (d), after the words “an Act relating to health services” insert “(in whole or in part)”, and

(iii) after paragraph (l), insert—

“(m) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012;

(n) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012.”;

(3) 2008 c. 30.

(4) S.I. 2010/772.

(5) Regulation 14 was substituted by S.I. 2012/215, regulations 17, 22.

(6) Amended by S.I. 2007/3280, regulation 2(1), (2)(c) and by S.I. 2008/2263, regulation 3(b).

(7) Amended by S.I. 2007/3280, regulation 1(2), and by S.I. 2008/2263, regulation 3(b).

(8) Inserted by S.I. 2006/600, regulation 2(1), (3).

(9) Relevant amendments are in S.I. 2000/605, regulations 2, 3(b)(iii), 2002/2469, regulation 4, Schedule 1, Part 2, paragraph 62(1), (2)(a), S.I. 2007/3280, regulation 2(1), (2)(f)(iv) and (vi).

- (d) “GDS contractor”(10), “GMS practice”(11), “medical performers list”(12), “ophthalmic provider”(13) and “PMS practice”(14), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (e) “GP performer”(15)—
- (i) for “trainee practitioner” substitute “specialist trainee in general practice”,
 - (ii) for “or certification services”, substitute “, certification services, Board and advisory work, health-related functions exercised under section 75 of the 2006 Act, NHS 111 services or pharmaceutical services”,
 - (iii) in paragraph (c)—
 - (aa) omit “a Primary Care Trust or”,
 - (bb) in sub-paragraph (i), omit “in the case of England, section 83(2)(a) of the 2006 Act or in the case of Wales,”,
 - (cc) in sub-paragraph (ii), omit “or section 92 arrangements made between a Primary Care Trust or a Local Health Board and a Strategic Health Authority”;
- (f) “host Trust or Board”(16)—
- (i) for “host Trust or Board”, substitute “host Board”,
 - (ii) for “each Primary Care Trust or Local Health Board” (three times), substitute “the National Health Service Commissioning Board or each Local Health Board”;
- (g) “PDS contractor”(17) for “a Primary Care Trust, nor a Strategic Health Authority,”, substitute “the National Health Service Commissioning Board”;
- (h) “PMS practice”, for “the Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (i) “practitioner”, for “trainee practitioner” substitute “specialist trainee in general practice”;
- (j) “type 2 dental practitioner”(18)—
- (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee”,
 - (ii) in paragraph (b)—
 - (aa) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”,
 - (bb) omit “Trust or”, and
 - (cc) in sub-paragraph (i), omit “in the case of England, section 99(2) of the 2006 Act or,”;
- (k) “type 2 medical practitioner”, omit “a Primary Care Trust” (twice).
- (4) Omit the definition of—

(10) Inserted by S.I. 2011/2586, regulations 2, 3(a).

(11) Amended by S.I. 2010/492, regulations 2, 3(a)(i) and (ii).

(12) Substituted (for the definition of “medical list” as inserted by S.I. 1998/666, regulation 3(c)), by S.I. 2005/661, regulation 2(d).

(13) Inserted by S.I. 2008/2263, regulation 3(h), substituted by S.I. 2008/2263, regulation 3(i) and amended by S.I. 2010/492, regulations 2, 3(c).

(14) Inserted by S.I. 2005/661, regulation 2(b).

(15) Inserted by S.I. 2005/661, regulation 2(b) and amended by S.I. 2006/600, regulation 2(1), (4)(a) and S.I. 2007/3280, regulation 2(1), (2)(i)(i) and (ii).

(16) Inserted by S.I. 2005/661, regulation 2(b), and amended by S.I. 2010/492, regulations 2, 3(b)(i) and (ii) and by S.I. 2011/2586, regulations 2, 3(b).

(17) Inserted by S.I. 2006/600, regulation 2(1), (3).

(18) Inserted by S.I. 2006/600, regulation 2(1), (3) and substituted by S.I. 2007/3280, regulation 2(1), (2)(m).

- (a) “trainee practitioner”(19); and
 - (b) “vocational trainee”(20).
- (5) For the definition of—
- (a) “enhanced services” substitute—
“enhanced services, in relation to—
 - (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or
 - (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations,and in each case, includes local enhanced services and public health local enhanced services which were, prior to 1st April 2013, commissioned by a Primary Care Trust under regulation 2(1) of the GMS Contracts Regulations as—
 - (i) local enhanced services, or
 - (ii) public health local enhanced services and transferred, on or after 1st April 2013, to a local authority by a transfer scheme made pursuant to section 300 of the Health and Social Care Act 2012”; and
 - (b) “pay period” substitute—
““pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract;”.

Amendment of regulation A3

- 4.—(1) Regulation A3 (approved out of hours providers)(21) is amended as follows.
- (2) In paragraph (1)—
 - (i) in sub-paragraph (a)(ii) and (iii), for “a Primary Care Trust” substitute “a Clinical Commissioning Group, the National Health Service Commissioning Board”;
 - (ii) in sub-paragraph (b)—
 - (aa) in paragraphs (vi) and (vii), for “a Primary Care Trust” substitute “a Clinical Commissioning Group, the National Health Service Commissioning Board”, and
 - (bb) in paragraph (vii)(bb), for “Trust” substitute “Group”.
 - (3) In paragraph (3), for “a Primary Care Trust” substitute “a Clinical Commissioning Group, the National Health Service Commissioning Board” and for “appointed Trust” substitute “appointed Group”.
 - (4) In paragraphs (4), (5)(b), (6)(b), (7)(a), (10)(twice), (11)(twice) and (12), for “Trust” substitute “Group”.

Amendment of regulation B1

- 5.—(1) Regulation B1 (membership of this Section of the scheme) is amended as follows.

(19) Which was substituted by S.I. 2005/661, regulation 2(d).

(20) The definition of “vocational trainee” was inserted by S.I. 2006/600, regulation 2(1), (3).

(21) Inserted by S.I. 2005/661, regulation 3. There are no relevant amendments.

(2) In paragraph (1)(b), for “trainee practitioners” substitute “specialist trainees in general practice”.

(3) For paragraph (2), substitute—

“(2) Subject to paragraph (3), each eligible person will be included in this Section of the scheme—

- (a) automatically on commencing NHS employment;
- (b) where the person has previously opted out of this Section of the scheme, on the date determined under paragraph (5) of regulation B4 where that paragraph applies: this is subject to regulation B4(6);
- (c) subject to regulation B4(6), where the person has previously opted out of this Section of the scheme and is a person to whom section 3 or section 5 of the 2008 Act applies—
 - (i) on that person’s automatic enrolment date, or
 - (ii) on that person’s automatic re-enrolment date, except where the notice referred to in regulation B4(1) was given within the 12 months immediately preceding that date.”.

Amendment of regulation B4

6.—(1) Regulation B4 (opting out of this Section of the scheme)(**22**) is amended as follows.

(2) Omit paragraphs (1A) to (1C).

(3) For paragraph (2), substitute—

“(2) A notice referred to in paragraph (1) shall take effect—

- (a) from the first day of the pay period immediately following its receipt by the employing authority; or
- (b) where a later date is specified in the notice, from the first day of the pay period following the pay period in which the specified date falls.”.

(4) For paragraph (3), substitute—

“(3) A person who opts out of this Section of the scheme under paragraph (1) within one month of the date of commencing NHS employment shall be treated as never having been included in this Section of the scheme in respect of that opt out and, if applicable, any contributions made by, or on behalf of, that person for the period before the opt out took effect must be refunded.”.

(5) For paragraph (4), substitute—

“(4) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the person’s—

- (a) automatic enrolment date; or
- (b) automatic re-enrolment date: this does not apply where the notice was given within the 12 months immediately preceding that date.”.

(6) Omit paragraph (5A).

(7) For paragraph (6), substitute—

“(6) A person who has opted out may not become a member of this Section of the scheme during any period of absence from work for any reason.”.

(8) After paragraph (7), add—

“(8) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act(23) and regulations 9 or 15 of the 2010 Regulations(24) applies (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.

Amendment of regulation D1

7.—(1) Regulation D1 (contributions by members)(25) is amended as follows.

(2) For the table in paragraph (1A), substitute—

“Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

(3) For paragraph (2A) substitute—

“(2A) Before determining those pensionable pay bands or contribution percentage rates under paragraph (2), the Secretary of State must consider the advice of the Scheme Actuary.”.

Amendment of regulation D2

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

(2) In paragraph (7), at the end insert (as full out words) “This is subject to paragraph (7A).”.

(3) After paragraph (7), insert—

“(7A) Where the member leaves pensionable employment on or after 1st April 2013, any additional contributions that are due to the Secretary of State under paragraph (3)(b), (c), (e) and (f) may only be paid by a single payment of an amount determined by the Secretary of State on the advice of the Scheme Actuary: that payment must be made within one month of the date on which the pension under regulation E3A became payable.”.

(23) Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Pension Scheme. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.

(24) Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

(25) Paragraph (2A) was substituted by [S.I. 2009/381](#), regulation 4 and amended by [S.I. 2010/1634](#), regulations 2, 3(1), (4).

Amendment of regulation E3A

9. For paragraph (2) of regulation E3A (early retirement pension (termination of employment by employing authority)), substitute—

“(2) Those conditions are that—

- (a) the member has 2 years’ qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;
- (b) the member’s employing authority certifies—
 - (i) that the member has at least 2 years’ continuous employment determined in accordance with any terms and conditions applying to that employment, and
 - (ii) if the member’s employment is terminated by reason of redundancy, the member is entitled to claim a pension under this regulation as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to the member in accordance with those terms and conditions;
- (c) the member’s employing authority does not certify that the member has unreasonably refused to seek suitable alternative employment or accept an offer of such employment;
- (d) the Secretary of State certifies—
 - (i) that the member’s employment is terminated by reason of redundancy, or
 - (ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which the member is employed; and
- (e) the member makes a claim for the pension referred to in this regulation.”.

Amendment of regulation G6

10. After paragraph (3), of regulation G6 (member marries after leaving pensionable employment), add—

“(4) Where the nominated partner referred to in regulation G14 (surviving nominated partner’s pension) becomes the member’s widow on the member’s death, the widow’s pension will, if it would be more beneficial to the widow, be equal to the nominated partner pension that would have been payable if the widow and the member had not been married to each other.”.

Amendment of regulation G14

11.—(1) Regulation G14 (surviving nominated partner’s pension) is amended as follows.

(2) In paragraph (2)(b)(26), at the end of—

- (a) paragraphs (i) and (ii), omit “or”; and
- (b) paragraph (iii), for “or” substitute “and”.

(3) For paragraph (5), substitute—

“(5) Subject to paragraph (6), regulations G1 to G6 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows and paragraph (1) of regulation G6 shall be read as if, for the words “where the member and his wife were not married to each other during any period of pensionable employment”,

it said “where a nomination for a surviving partner pension becomes effective after all pensionable employment has ceased.”.

Amendment of regulation H4

12. For paragraph (4) of regulation H4 (member dies after pension becomes payable), substitute—

“(4) If the member dies leaving a dependent child and there is no surviving parent or no surviving spouse or civil partner or nominated partner of a parent, the allowance—

- (a) for the period of 6 months beginning with the member’s death, will be the greater of—
 - (i) the amount of the member’s pension calculated without regard to any reduction made under regulation S2 (reduction of pension on return to NHS employment), and
 - (ii) the amount of child allowance that would otherwise be payable under these Regulations;
- (b) following the period referred to in (a), will be equal to—
 - (i) one-third of the pension described in paragraph (2) if there is only one dependent child,
 - (ii) two-thirds of the pension described in paragraph (2) if there are two or more dependent children.”.

Amendment of regulation K6

13. In paragraph (1) of regulation K6(27) (protected rights transferred to this Section of the scheme), after “Where” insert “, prior to 6th April 2012,”.

Amendment of regulation Q13

14.—(1) Regulation Q13 (cancellation and cessation of options under regulation Q8)(28) is amended as follows.

- (2) In paragraph (4), after “such an option” insert “in accordance with paragraph (3)”.
- (3) After paragraph (4), add—

“(5) If, after the exercise of the option under regulation Q8, the Secretary of State has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Secretary of State may cancel the option by giving the member notice in writing.

- (6) If the Secretary of State cancels such an option in accordance with paragraph (5)—
 - (a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods, and
 - (b) any periodical payments made prior to the date of cancellation shall be returned to the member.”.

(27) Amended by S.I. 2009/2446, regulations 2, 10, Schedule 1, Part 1, paragraph 1(a).

(28) Regulation Q13 was inserted by S.I. 2008/654, regulation 1(2).

Amendment of regulation Q15

15. In regulation Q15 (effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11)(29), in paragraphs (2) and (4), for “If a member” substitute “Subject to regulation Q13(5) and (6), if a member”.

Amendment of regulation R1

16.—(1) Regulation R1 (practitioners and trainee practitioners)(30), is amended as follows.

(2) In the heading, for “trainee practitioners” substitute “specialist trainees in general practice”.

(3) In paragraph (1), for “Primary Care Trust” substitute “the National Health Service Commissioning Board”.

(4) In paragraph (2), for—

(a) “trainee practitioners” substitute “specialist trainees in general practice”,

(b) “relevant Local Health Board or Primary Care Trust” substitute “relevant employing authority”.

(5) In paragraph (3), for “Primary Care Trust or Local Health Board” substitute “the National Health Service Commissioning Board or relevant Local Health Board”.

Amendment of regulation S2

17.—(1) Regulation S2 (reduction of pension on return to NHS employment), is amended as follows.

(2) In paragraph (6), after “paragraph (3)” insert “or (3A)”.

(3) In paragraph (14)(31), in the definition of “actuarially reduced pension”, for “the member become entitled to a pension” substitute “the member had become entitled to a pension”.

New regulation T1A

18. After regulation T1 (claims for benefits), insert—

“T1A Provision of information: continuing entitlement to benefit

(1) Secretary of State may specify a date by which a person who is in receipt of a benefit under this Section of the scheme is to provide the Secretary of State with all or any of the following material—

(a) evidence of the person’s identity;

(b) the person’s contact details;

(c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Secretary of State may withhold all, or any part, of any benefit payable to that person.”.

(29) Regulation Q15 was inserted by S.I. 2008/654, regulation 51.

(30) Paragraphs (1) and (2) were amended by S.I. 2002/2469, regulations 8(a), 14, Schedules 5 and 11. Paragraph (3) was inserted by S.I. 2005/661, regulation 8 and amended by S.I. 2007/3280, regulation 2(1), (15).

(31) The definition of “actuarially reduced pension” was inserted by S.I. 2008/654, regulation 57(1), (4).

Amendment of regulation U3

19. Omit paragraphs (3) to (4) of regulation U3 (accounts and actuarial reports)(32).

Omission of regulation U4

20. Omit regulation U4 (cost sharing)(33).

Amendment of Schedule 2

- 21.—(1) Schedule 2 (Medical and Dental Practitioners) is amended as follows.

- (2) In paragraph 1 (additional definitions used in this Schedule)—

- (a) in the definition of—

(i) “Board and advisory work”(34), for “primary medical” (twice) substitute “NHS”;

(ii) “collaborative services”(35)—

(aa) in paragraph (a), omit “the Secretary of State,” and for “a Primary Care Trust”, substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”, and

(bb) for the full-out words at the end, substitute—

“under, in the case of England, section 80(6A) of the 2006 Act or in the case of Wales, section 38(6) of the 2006 (Wales) Act, under which the Clinical Commissioning Group, the National Assembly for Wales, the National Health Service Commissioning Board or the Local Health Board is responsible for providing services for purposes related to the provision of health care.”;

(iii) “commissioned services” in paragraph (b)(36)—

(aa) in sub-paragraph (i), omit “a Strategic Health Authority or”,

(bb) for sub-paragraph (ii), substitute—

“(ii) the National Assembly for Wales, the National Health Service Commissioning Board or a Local Health Board under, in the case of England, section 12ZA of the 2006 Act or, in the case of Wales, section 10 of the 2006 (Wales) Act (which relates to arrangements made with any person or body, including a voluntary one, for the provision of services under the Act),”

(cc) at the end of sub-paragraph (iii), omit “or”,

(dd) at the end of sub-paragraph (iv), insert “or”,

(ee) after sub-paragraph (iv), add—

“(v) a local authority acting under section 2B of the 2006 Act.”;

(iv) “locum practitioner”(37)—

(aa) for “trainee practitioner” substitute “specialist trainee in general practice”,

(bb) in paragraph (e), omit “a Primary Care Trust or”,

(32) Relevant amendments are [S.I. 2005/661](#), regulation 10(a), [S.I. 2007/3280](#), regulation 2(1), (26) and [S.I. 2010/1634](#), regulations 2, 6(1), (2), (3).

(33) Inserted by [S.I. 2008/654](#), regulation 64.

(34) Inserted by [S.I. 2005/661](#), regulation 11(1), (2)(c).

(35) Inserted by [S.I. 2005/661](#), regulation 11(1), (2)(c) and amended by [S.I. 2007/3280](#), regulation 2(1), (27)(a)(i).

(36) Inserted by [S.I. 2005/661](#), regulation 11(1), (2)(c). Relevant amendment is [S.I. 2007/3280](#), regulation 2(1), (27)(a)(ii).

(37) Substituted by [S.I. 2005/661](#), regulation 11(1), (2)(b).

- (cc) after “certification services” insert “, Board and advisory work, health related functions exercised under section 75 of the 2006 Act, NHS 111 services”;
- (b) omit the definition of “Executive Committee”(38);
- (c) at the appropriate place in the alphabetical order insert—
 ““NHS 111 services” means services provided as part of the telephone advice line commissioned by a Clinical Commissioning Group or the National Health Service Commissioning Board;”.
- (3) In paragraph 2 (application of Regulations with modifications), in—
- (a) sub-paragraph (1)—
- (i) for “employed by the relevant Primary Care Trust or Local Health Board”, substitute “employed by the relevant Local Health Board or the National Health Service Commissioning Board”;
- (ii) for “reference to the relevant Primary Care Trust or Local Health Board”, substitute “reference to the relevant Board”;
- (b) sub-paragraph (1A), for “Primary Care Trust or Local Health Board who prepare and publish” substitute “Board that prepares and publishes”;
- (c) sub-paragraph (2), after “practitioner” insert “other than any period or periods of work as a locum practitioner”.
- (4) In paragraph 3 (meaning of pensionable earnings)—
- (a) for sub-paragraph (2)(a)(v)(39), substitute—
 “(v) engagement by a Local Health Board to assist in the provision of primary medical services under section 41(2)(a) of the 2006 (Wales) Act;”;
- (b) in sub-paragraph (2)(a)(vii), after “collaborative services” insert “, NHS 111 services”;
- (c) after sub-paragraph (2)(d), insert—
 “(e) health-related functions exercised under section 75 of the 2006 Act.”;
- (d) in sub-paragraph (2B), in—
- (i) paragraph (a)(40) for “Primary Care Trust”, substitute “National Health Service Commissioning Board”, and
- (ii) paragraph (a)(iv) and (v), for “vocational trainee” substitute “foundation trainee”;
- (e) in sub-paragraph (2D), in paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”.
- (5) In paragraph 4 (calculating pensionable earnings of medical practitioners in partnership)(41), in—
- (a) sub-paragraph (3), for “registered medical practitioner” substitute “type 1 medical practitioner”;
- (b) sub-paragraph (4), for “the Local Health Board or Primary Care Trust” substitute “the National Health Service Commissioning Board or Local Health Board”.

(38) Inserted by [S.I. 2000/605](#), regulations 2, 15(b)(i).

(39) Sub-paragraph (2)(a) substituted by [S.I. 2005/661](#), regulation 11(1), (4)(b) and amended by [S.I. 2007/3280](#), regulation 2(1), (27)(b)(i).

(40) Inserted by [S.I. 2006/600](#), regulation 21(1), (4)(c), and amended by [S.I. 2008/2263](#), regulation 22(1), (4)(c).

(41) Substituted by [S.I. 2005/661](#), regulation 11(1), (5).

- (6) In paragraph 5 (elections relating to calculation of “pensionable earnings” in medical partnerships)(42), in—
- (a) sub-paragraph (1), omit “Trust or”;
 - (b) sub-paragraph (4)—
 - (i) omit “Primary Care Trust or”, and
 - (ii) after “Local Health Board” insert “or the National Health Service Commissioning Board”;
 - (c) sub-paragraph (5), for “Primary Care Trust” substitute “National Health Service Commissioning Board”;
 - (d) sub-paragraph (6), for “Primary Care Trust” substitute “National Health Service Commissioning Board”.
- (7) In paragraph 6 (meaning of “pensionable earnings” in relation to other practitioners), in—
- (a) sub-paragraph (1)(a), for “or pharmaceutical services” substitute “, health-related functions exercised under section 75 of the 2006 Act, pharmaceutical services or NHS 111 services”;
 - (b) sub-paragraph (2)(a), for “vocational trainee” substitute “foundation trainee”;
 - (c) sub-paragraph (4), for “or pharmaceutical services” substitute “, health-related functions exercised under section 75 of the 2006 Act, pharmaceutical services or NHS 111 services”.
- (8) In paragraph 8 (limit on pensionable earnings-dental practitioners), in sub-paragraph (3)(43), for—
- (a) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - and
 - (b) “the Dental Practice Board” substitute “the Dental Services Division of the National Health Service Business Services Authority”.
- (9) In paragraph 10 (contributions to this Section of the scheme)(44)—
- (a) for sub-paragraph (1A) substitute—
 - “(1A) For the purposes of this paragraph, the “relevant table” means—
 - (a) in respect of the 2012-2013 scheme year, table 1;
 - (b) in respect of the 2013-2014 scheme year, table 2.

Table 1

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%

(42) Relevant amendments are S.I. 2002/2469, regulation 8(a), Schedule 5, S.I. 2005/661, regulation 11(1), (6)(a)(i) and (ii), (b) (i) and (ii) (c) and (d), S.I. 2006/600, regulation 21(1), (6)(a), (b) and (c), S.I. 2008/654, regulation 65(1) and (6) and S.I. 2008/2263, regulation 22(1), (5).

(43) Relevant amendments are S.I. 2002/2469, regulation 9, Schedule 6, S.I. 2008/654, regulation 65(1)(7)(b) and S.I. 2008/2263, regulation 22(1), (6).

(44) Relevant amendments are in S.I. 2006/600, regulation 21(1), (10)(a) to (d), (10)(g)(i) and (ii), (h) and (i), S.I. 2008/2263, regulation 22(1), (8)(c), S.I. 2009/381, regulation 13(1), (2), S.I. 2010/1634, regulations 2, 7(1), (3), (4) and S.I. 2011/2586, regulations 2, 12(1), (5)(a), (b).

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

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2

Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

- (b) for sub-paragraph (2B), substitute—
“(2B) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme Actuary.”;
- (c) for sub-paragraph (2F), substitute—
“(2F) In determining, in accordance with this paragraph, the contributions that are payable pursuant to regulations D1(1) and D2(1), a host Board must take account of all pensionable earnings, including those determined by another host Board, as a—
(a) practitioner, from all practitioner sources;
(b) non-GP provider, from all non-GP provider sources;
(c) dentist performer, from all dentist performer sources.”;
- (d) in sub-paragraph (2G), omit “Trust or”(twice);
- (e) in sub-paragraphs (2H)(twice), (2I)(three times), (2K)(twice), (2L)(three times), (2N)(three times), (4), (5)(twice), (6), (7), (8)(four times), (9) (twice), (10)(four times), (11), (14) (twice), (15)(four times) and (16) omit “Trust or”;
- (f) in sub-paragraph (10A)(45), in paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”;
- (g) for sub-paragraphs (12) and (13), substitute—

(45) Sub-paragraph (10A) was inserted by S.I. 2006/600, regulation 21(1), (10)(e).

“(12) Where contributions are payable by a locum practitioner under sub-paragraph (11) in respect of pensionable locum work carried out for an employing authority, that employing authority shall pay contributions under regulation D2(1) in respect of that work.

(13) Where D2(1) contributions are payable in respect of a locum practitioner under sub-paragraph (12), those contributions shall be payable—

- (a) to the host Board where the Secretary of State is not that host Board, and
- (b) to the Secretary of State if the employing authority is the host Board.”;

(h) for sub-paragraph (17), substitute—

“(17) Sub-paragraph (17A) applies where, despite the provisions of this paragraph—

- (a) a type 1 or type 2 practitioner, locum practitioner or non-GP provider has failed to pay D1 contributions;
- (b) a type 1 practitioner or non-GP provider has failed to pay D2(1) contributions; or
- (c) an employing authority has failed to deduct D1 contributions.

(17A) The Secretary of State may recover the amount of any unpaid contributions referred to in sub-paragraph (17)—

- (a) where an employing authority has ceased to exist and paragraph (a) of that sub-paragraph applies, by adding the amount of those unpaid contributions to the amount of D1 contributions the practitioner or non-GP provider in question is due to pay to the host Board: that practitioner or non-GP provider is to record that amount of those unpaid contributions in a certificate referred to in paragraph 23 of this Schedule; or
- (b) by deduction from any payment of a benefit to, or in respect of, the member entitled to that benefit: such a deduction must be to the member’s advantage and is subject to the member’s consent.

(17B) The provisions of sub-paragraph (17A) are without prejudice to any other method of recovery the Secretary of State may have.”;

(i) in sub-paragraph (18)(a) and (b), after “a practitioner” insert “, a locum practitioner”.

(10) In paragraph 19 (members absent from work)(46)—

- (a) in sub-paragraphs (2) and (3), for “Regulation P1”, substitute “Subject to sub-paragraph (8), regulation P1”;
- (b) after sub-paragraph (7)(47), insert—

“(8) Before a calculation of a member’s pensionable earnings can be made in accordance with sub-paragraphs (4) and (5), written notice of the length of the absence must be given to the Secretary of State by—

- (a) the member, where the member is a type 1 practitioner or a non-GP provider; or
- (b) in all other cases, the National Health Service Commissioning Board or relevant Local Health Board.

(9) The notice referred to in sub-paragraph (8) must be provided to the Secretary of State in such form and manner as the Secretary of State may stipulate from time to time.”.

(11) In paragraph 23 (accounts and actuarial reports)(48), in sub-paragraphs (2), (3), (4) (four times), (5), (6), (7) and (15)(twice), omit “Trust or”.

(46) Relevant amendment is S.I. 2002/561, regulation 2, Schedule, paragraph (10)(1), (12).

(47) Sub-paragraph (7) was inserted by S.I. 2002/561, regulation 2, Schedule, paragraph 10(1), (12).

(48) Amended by S.I. 2009/381, regulation 13(1), (4) and S.I. 2011/2586, regulations 2, 12(1), (7).

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

Part 3: General

22. The National Health Service Pension Scheme Regulations 2008⁽⁴⁹⁾ are amended in accordance with this Part.

Amendment of regulation 1.B.1

23. Omit paragraphs (4), (5) and (6) of regulation 1.B.1 (actuarial reports and accounts).

Omission of regulation 1.B.2

24. Omit regulation 1.B.2 (cost sharing).

Amendment of regulation 2.A.1

25.—(1) Regulation 2.A.1 (interpretation: general), is amended as follows.

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

““the 2008 Act” means the Pensions Act 2008⁽⁵⁰⁾”;

““the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010⁽⁵¹⁾”;

““automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14⁽⁵²⁾ of those Regulations)”;

““NHS 111 services” means services provided as part of the telephone advice line commissioned by a Clinical Commissioning Group or the National Health Service Commissioning Board”;

(3) In the definition of—

(a) “APMS contract” and “APMS contractor”⁽⁵³⁾ for—

(i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and

(ii) “section 83(2)(b)” substitute “section 83(2)”;

(b) “collaborative services”—

(i) omit “the Secretary of State,” (twice),

(ii) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,

(iii) for “the Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,

(iv) for “section 80(6)”, substitute “section 80(6A)”;

(c) “commissioned services”—

⁽⁴⁹⁾ S.I. 2008/653 as amended by S.I. 2008/2263, 2009/381, 1298 and 2446, 2010/492 and 1634, 2011/591 and 2586 and 2012/610.

⁽⁵⁰⁾ 2008 c.30.

⁽⁵¹⁾ S.I. 2010/772.

⁽⁵²⁾ Regulation 14 was substituted by S.I. 2012/215, regulations 17, 22.

⁽⁵³⁾ Amended by S.I. 2008/2263, regulation 25(1), (2)(a).

- (i) in paragraph (b)(i), omit “a Strategic Health Authority or”,
- (ii) for paragraph (b)(ii), substitute—
 - “(ii) the National Assembly for Wales, the National Health Service Commissioning Board or a Local Health Board under, in the case of England, section 12ZA of the 2006 Act or, in the case of Wales, section 10 of the 2006 (Wales) Act (which relates to arrangements made with any person or body, including a voluntary one, for the provision of services under the Act); or”;
- (iii) at the end of paragraph (b)(iv), insert “or”,
- (iv) after paragraph (b)(iv), add—
 - “(v) a local authority acting under section 2B of the 2006 Act;”;
- (d) “dentist performer”—
 - (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee” and for “vocational training” substitute “foundation training”,
 - (ii) for paragraph (b)(iii), substitute—
 - “(iii) a contract for services with a Local Health Board which relates to arrangements under which it provides primary dental services under section 56(2) of the 2006 (Wales) Act (primary dental services) or a PDS agreement to which a PDS contractor is not a party;”;
- (e) “employing authority”—
 - (i) paragraphs (a) and (c) are omitted,
 - (ii) in paragraph (g)(i), after the words “an Act relating to health services” insert “(in whole or in part)”,
 - (iii) in paragraph (n), omit “Trust or”, and
 - (iv) after paragraph (n), add—
 - “(o) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012⁽⁵⁴⁾;
 - “(p) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012;”;
- (f) “GDS contractor”, for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (g) “GMS practice”⁽⁵⁵⁾ for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (h) “GP performer”—
 - (i) for “or certification services”, substitute “, certification services, Board and advisory work, health-related functions exercised under section 75 of the 2006 Act, NHS 111 services or pharmaceutical services”,
 - (ii) in paragraph (c)—
 - (aa) omit “a Primary Care Trust or”,
 - (bb) in sub-paragraph (i), omit “83(2)(a) of the 2006 Act or”,

⁽⁵⁴⁾ 2012 c. 7.

⁽⁵⁵⁾ Amended by S.I. 2010/492, regulations 16 and 17(a)(i) and (ii).

- (cc) in sub-paragraph (ii), omit “or section 92 arrangements made between a Primary Care Trust or a Local Health Board and a Strategic Health Authority”;
- (i) “host Trust or Board”**(56)**—
- (i) for “host Trust or Board” substitute “host Board”,
 - (ii) for “each Primary Care Trust or Local Health Board” substitute “the National Health Service Commissioning Board or each Local Health Board”,
 - (iii) for “relevant Trust or Board” substitute “relevant Board”,
 - (iv) for “appropriate Trust or Board” substitute “appropriate Board”;
- (j) “locum practitioner”—
- (i) in paragraph (e), omit “Primary Care Trust or”, and
 - (ii) after “certification services” insert “, Board and advisory work, health related functions exercised under section 75 of the 2006 Act, NHS 111 services”;
- (k) “medical performers’ list”, in paragraph (a), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (l) “ophthalmic provider”**(57)**, in paragraph (a)(i), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (m) “PDS contractor”, in paragraph (b)—
- (i) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) omit “nor a Strategic Health Authority,”; and
- (n) “PMS practice”, for—
- (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”.
- (4) For the definition of—
- (a) “enhanced services”, substitute—
- “enhanced services, in relation to—
- (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or
 - (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations,

and in each case, includes local enhanced services and public health local enhanced services which were, prior to 1st April 2013, commissioned by a Primary Care Trust under regulation 2(1) of the GMS Contracts Regulations as—

- (i) local enhanced services, or

(56) Substituted by [S.I. 2008/2263](#), regulation 25(1), (2)(d) and amended by [S.I. 2009/2446](#), regulations 11, 13(d) and by [S.I. 2010/492](#), regulations 16, 17(b).

(57) Inserted by [S.I. 2010/492](#) regulations 16, 17(d).

- (ii) public health local enhanced services and transferred, on or after 1st April 2013, to a local authority by a transfer scheme made pursuant to section 300 of the Health and Social Care Act 2012”; and
- (b) “pay period”, substitute—
 - ““pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract;”.

Amendment of regulation 2.A.6

- 26.** In paragraph (6) of regulation 2.A.6 (qualifying service: disregard of breaks in service)(**58**)—
- (a) for “Paragraphs (2), (4) and (5) do not apply if” substitute “Where”,
 - (b) in sub-paragraph (a), after “the earlier period” insert “, paragraphs (4) and (5) do not apply”, and
 - (c) in sub-paragraph (b), at the end, add “, paragraphs (2), (4) and (5) do not apply”.

Amendment of regulation 2.A.8

- 27.**—(1) Regulation 2.A.8 (meaning of “pensionable pay”) is amended as follows.
- (2) In paragraph (6) for “or collaborative services”, substitute “, collaborative services or health-related functions exercised under section 75 of the 2006 Act”.
 - (3) In paragraph (9), after “will be made by” insert “the National Health Service Commissioning Board or” and omit “or Primary Care Trust”.
 - (4) In paragraph (10), omit “Trust or”.
 - (5) In paragraph (11), sub-paragraph (b)(i), for “Primary Care Trust” substitute “National Health Service Commissioning Board”.

Amendment of regulation 2.A.15

- 28.**—(1) Regulation 2.A.15 (out of hours providers)(**59**) is amended as follows.
- (2) In paragraph (1)—
 - (a) for “Primary Care Trust” (four times) substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”; and
 - (b) in sub-paragraph (b)(vii)(bb), for “Trust” substitute “Group”.
 - (3) In paragraph (3), for “Primary Care Trust” substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”.
 - (4) In paragraphs (3), (4), (5)(a), (8)(twice), (9)(twice) and (10), for “Trust” substitute “Group”.

Amendment of regulation 2.B.4

- 29.**—(1) Regulation 2.B.4 (joining this Section of the Scheme), is amended as follows.
- (2) For paragraph (1), substitute—

(58) Amended by [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

(59) Amended by [S.I. 2009/2446](#), regulations 1(2), 11, 103 Schedule 2, Part 1, paragraph 1(a) and by the Cooperative and Community Benefit Societies and Credit Unions Act 2010 (c. 7), section 8(2), (3).

“(1) Subject to paragraph (3), a person in NHS employment who is eligible to be an active member of this Section of the Scheme, becomes such a member, unless absent from work for any reason, on either—

- (a) the commencement of the person’s employment; or
- (b) where the person has previously opted out of this Section of the Scheme under regulation 2.B.5(1) and is a person to whom section 3 or section 5 of the 2008 Act applies—
 - (i) on that person’s automatic enrolment date, or
 - (ii) on that person’s automatic re-enrolment date, except where the notice referred to in regulation 2.B.5(1) was given within 12 months immediately preceding that date.”.

(3) For paragraph (3), substitute—

“(3) A person who has previously exercised an option to opt out of this Section of the Scheme in accordance with regulation 2.B.5(1) in respect of an employment in which that person was an active member, and who remains eligible to be an active member in respect of that employment, may opt to join or re-join this Section of the Scheme by giving notice in writing to the employing authority in such form as the Secretary of State requires.”.

(4) Omit paragraph (6).

Amendment of regulation 2.B.5

30.—(1) Regulation 2.B.5 (opting out of this Section of the Scheme), is amended as follows.

(2) In paragraph (1), after “any” insert “NHS”.

(3) For paragraphs (4) to (6), substitute—

“(4) A person to whom paragraph (1)(a) of regulation 2.B.4 applies in respect of an employment who gives notice in writing under paragraph (1) of this regulation within one month of the date of commencing that NHS employment, is treated as not having become an active member by virtue of that regulation.

(5) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the person’s—

- (a) automatic enrolment date, or
- (b) automatic re-enrolment date: this does not apply where the notice was given within 12 months immediately preceding that date.

(6) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act⁽⁶⁰⁾ and regulations 9 or 15 of the 2010 Regulations⁽⁶¹⁾ applies (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the Scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the Scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.

⁽⁶⁰⁾ Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Pension Scheme. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.

⁽⁶¹⁾ Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

Amendment of regulation 2.C.1

31.—(1) Regulation 2.C.1 (contributions by members)(**62**) is amended as follows.

(2) In paragraph (4), omit “Trust or”.

(3) For paragraphs (5) and (6), substitute—

“(5) Paragraph (6) applies where, despite the provisions of this regulation—

- (a) a type 1 or type 2 practitioner, locum practitioner or non-GP provider has failed to pay D1 contributions;
- (b) a type 1 practitioner or non-GP provider has failed to pay D2(1) contributions; or
- (c) an employing authority has failed to deduct D1 contributions.

(6) The Secretary of State may recover the amount of any unpaid contributions referred to in paragraph (5)—

- (a) where an employing authority has ceased to exist and sub-paragraph (a) of that paragraph applies, by adding the amount of those unpaid contributions to the amount of D1 contributions the practitioner or non-GP provider in question is due to pay to the host Board: that practitioner or non-GP provider is to record that amount of those unpaid contributions in a certificate referred to in regulation 2.J.14; or
- (b) by deduction from any payment of a benefit to, or in respect of, the member entitled to that benefit: such a deduction must be to the member’s advantage and is subject to the member’s consent.”.

Amendment of regulation 2.C.2

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

(2) For the table in paragraph (2) substitute—

“Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

(3) For paragraph (4), substitute—

“(4) Before determining those pensionable pay bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

(62) Substituted by [S.I. 2010/1634](#), regulations 8 and 10.

Amendment of regulation 2.C.4

33.—(1) Regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers) is amended as follows.

(2) For paragraph (4), substitute—

“(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

(3) In paragraphs (5) (twice), (7) (three times), 9 (three times), (11) (twice), (12) (twice), (13) and (14) (twice), omit “Trust or”.

(4) For paragraph (15) substitute—

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

(a) in respect of the 2012-2013 scheme year, table 1;

(b) in respect of the 2013-2014 scheme year, table 2.

Table 1

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2

Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

Amendment of regulation 2.C.5

34. In paragraphs (6), (7), (8)(four times) and (9) of regulation 2.C.5 (contributions by employing authorities: general)(**63**), omit “Trust or”.

Amendment of regulation 2.C.6

35. After paragraph (4) of regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pension under regulation 2.D.11), insert—

“(4A) Sub-paragraph (b) of paragraph (4) does not apply where the member leaves the employment in which the member was an active member on, or after, 1st April 2013.”.

Amendment of regulation 2.C.13

36.—(1) Regulation 2.C.13 (cancellation of options under regulation 2.C.8) is amended as follows.

(2) In paragraph (4), after “such an option” insert “in accordance with paragraph (3)”.

(3) After paragraph (4), add—

“(5) If, after the exercise of the option under regulation 2.C.8, the Secretary of State has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Secretary of State may cancel the option by giving the member notice in writing.

(6) If the Secretary of State cancels such an option in accordance with paragraph (5)—

- (a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods, and
- (b) any periodical payments made prior to the date of cancellation shall be returned to the member.”.

Amendment of regulation 2.C.15

37. At the end of paragraph (4) of regulation 2.C.15 (effect of death or early payment of pension after option exercised under regulation 2.C.8, 2.C.10 or 2.C.11), add (as full out words) “This is subject to regulation 2.C.13(5) and (6).”.

Amendment of regulation 2.D.11

38. For paragraph (1)(c) of regulation 2.D.11 (early retirement on termination of employment by employing authority), substitute—

“(c) the member’s employing authority certifies that the member—

- (i) has at least 2 years’ continuous employment determined in accordance with any terms and conditions applying to the employment,
- (ii) is entitled to claim a pension under this regulation if the member’s employment is terminated by reason of redundancy as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to the member in accordance with those terms and conditions, and
- (iii) has not unreasonably refused to seek suitable alternative employment or accept an offer of such employment.”.

(63) Substituted by [S.I. 2010/1634](#), regulations 8, 14.

Amendment of regulation 2.E.11

39. For paragraph (6) of regulation 2.E.11 (amount of children’s pension under regulation 2.E.8: deceased pensioner members), substitute—

“(6) In a case within paragraph (4)(b) or (c), the rate of the pension in respect of the dependent child or children for the period of 6 months beginning with the deceased’s death is equal to the greater of—

- (a) the rate of the member’s pension at the date of death disregarding any reduction made under Chapter 2.H (abatement) and any additional pension, and
- (b) the amount of children’s pension that would otherwise be payable under these Regulations.”.

Amendment of regulation 2.F.10

40. In paragraph (1) of regulation 2.F.10 (acceptance of transfer value payments)—

- (a) for “he” substitute “Secretary of State”; and
- (b) for “(4)” substitute “(5)”.

Amendment of regulation 2.H.1

41. Omit paragraph (5) of regulation 2.H.1(64) (application of chapter 2.H).

Amendment of regulation 2.H.3

42.—(1) Regulation 2.H.3 (reduction of pension) is amended as follows.

- (2) In paragraphs (1) and (2) for “scheme year” substitute “financial year”.
- (3) For paragraphs (6) and (7) substitute—

“(6) For the purpose of calculating the reduction to be made under paragraph (1) in respect of any part of a financial year, the amount of the member’s previous pay will be reduced proportionately.”.

Amendment of regulation 2.H.4

43. In regulation 2.H.4 (meaning of “relevant income”), for “scheme year” (twice) substitute “financial year”.

Amendment of regulation 2.H.5

44. In regulation 2.H.5 (meaning of “previous pay”: general), for “scheme year” (three times) substitute “financial year”.

Amendment of regulation 2.H.6

45. In regulation 2.H.6 (meaning of “previous pay”: members with concurrent employments), for “scheme year” (four times) substitute “financial year”.

Amendment of regulation 2.H.8

46. In regulation 2.H.8 (employed pensioners with more than one pension), for “scheme year” (four times) substitute “financial year”.

Amendment of regulation 2.H.9

47. In regulation 2.H.9 (provisional reductions and later adjustments), for “scheme year” (eight times) substitute “financial year”.

New regulation 2.J.2A

48. After regulation 2.J.2 (claims for benefits), insert—

“2.J.2.A Provision of information: continuing entitlement to benefit

(1) The Secretary of State may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Secretary of State with all or any of the following material—

- (a) evidence of the person’s identity;
- (b) the person’s contact details;
- (c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Secretary of State may withhold all, or any part of, any benefit payable to that person.”.

Amendment of 2.J.12

49. In regulation 2.J.12 (general prohibition on unauthorised payments), for “rules” substitute “Regulations”.

Amendment of regulation 2.J.14

50. In paragraph (1) of regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates)(65), omit “Trust or”.

Amendment of regulation 3.A.1

51.—(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 2008 Act” means “the Pensions Act 2008(66);”;

““2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(67);”;

““automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act;”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14(68) of those Regulations);”;

““foundation trainee” means a dentist performer who is employed as a foundation trainee as a consequence of a placement arrangement made by a local postgraduate dental dean or a director of postgraduate dental education;”;

(65) Substituted by [S.I. 2009/381](#), regulation 52 and amended by [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

(66) [2008 c.30](#).

(67) [S.I. 2010/772](#).

(68) Regulation 14 was substituted by [S.I. 2012/215](#), regulations 17, 22.

“NHS 111 services” means services provided as part of the telephone advice line commissioned by a Clinical Commissioning Group or the National Health Service Commissioning Board;”.

- (3) In the definition of—
- (a) “APMS contract” and “APMS contractor”**(69)**, for—
- (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) “section 83(2)(b)” substitute “section 83(2)”;
- (b) “Board and advisory work”, for “primary medical” (twice) substitute “NHS”;
- (c) “collaborative services”,—
- (i) omit “the Secretary of State,”(twice),
 - (ii) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,
 - (iii) for “the Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,
 - (iv) for “section 80(6)”, substitute “section 80(6A)”;
- (d) “commissioned services”—
- (i) in paragraph (b)(i), omit “a Strategic Health Authority or”,
 - (ii) for sub-paragraph (ii), substitute—
 - “(ii) the National Assembly for Wales, the National Health Service Commissioning Board or a Local Health Board under, in the case of England section 12ZA of the 2006 Act or, in the case of Wales, section 10 of the 2006 (Wales) Act (which relates to arrangements made with any person or body including a voluntary one, for the provision of services under the Act); or”,
 - (iii) at the end of paragraph (b)(iv), insert “or”,
 - (iv) after paragraph (b)(iv), add—
 - “(v) a local authority acting under section 2B of the 2006 Act;”;
- (e) “dentist performer”—
- (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee” and for “vocational training” substitute “foundation training”,
 - (ii) for paragraph (b)(iii), substitute—
 - “(iii) a contract for services with a Local Health Board which relates to arrangements under which it provides primary dental services under section 56(2) of the 2006 (Wales) Act (primary dental services) or a PDS agreement to which a PDS contractor is not a party;”;
- (f) “employing authority”—
- (i) paragraphs (a) and (c) are omitted,
 - (ii) in paragraph (g)(i), after the words “an Act relating to health services” insert “(in whole or in part)”,
 - (iii) in paragraph (n), omit “Trust or”, and
 - (iv) after paragraph (n), add—

- (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (p) “type 2 dental practitioner”—
 - (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee”,
 - (ii) in paragraph (b)—
 - (aa) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”,
 - (bb) omit “Trust or”, and
 - (cc) omit “in the case of England, section 99(2) of the 2006 Act or.”;
- (q) “type 2 medical practitioner” omit “a Primary Care Trust” (twice).
- (4) Omit the definitions of “Executive Committee” and “vocational trainee”.
- (5) For the definition of—
 - (a) “enhanced services” substitute—
 - “enhanced services, in relation to—
 - (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or
 - (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations,

and, in each case, includes local enhanced services and public health local enhanced services which were, prior to 1st April 2013, commissioned by a Primary Care Trust under regulation 2(1) of the GMS Contracts Regulations as—

 - (i) local enhanced services, or
 - (ii) public health local enhanced services and transferred, on or after 1st April 2013, to a local authority by a transfer scheme made pursuant to section 300 of the Health and Social Care Act 2012”; and- (b) “pay period” substitute—
 - “pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract.”.

Amendment of regulation 3.A.6

52.—(1) Regulation 3.A.6 (qualifying service: disregard of breaks in service) is amended as follows.

- (2) In paragraph (6)—
 - (i) for “Paragraphs (2), (4) and (5) do not apply if” substitute “Where”,
 - (ii) in sub-paragraph (a), after “the earlier period” insert “, paragraphs (4) and (5) do not apply”, and
 - (iii) in sub-paragraph (b), at the end, add “, paragraphs (2), (4) and (5) do not apply”.
- (3) In paragraph (7), for “(6)(b)” substitute “(6)(a)”.

Amendment of regulation 3.A.7

53.—(1) Regulation 3.A.7(**73**) (meaning of “pensionable earnings”) is amended as follows.

(2) In paragraph (2)(a)(v), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”.

(3) In paragraph (2)(a)(v)(aa), for “section 83(2)(a)” substitute “section 83(2)”.

(4) In paragraph (2)(a)(vii), after “collaborative services” insert “, NHS 111 services”.

(5) After paragraph (2)(d), insert—

“(e) any sums paid in respect of health-related functions exercised under section 75 of the 2006 Act.”.

(6) In paragraph (4), for—

(a) “Primary Care Trust” substitute “National Health Service Commissioning Board”; and

(b) in sub-paragraphs (d) and (e), for “vocational trainee” substitute “foundation trainee”.

(7) In paragraph (6), in sub-paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”.

Amendment of regulation 3.A.8

54. After paragraph (10) of regulation 3.A.8(**74**) (pensionable earnings – breaks in service), add—

“(11) Before a calculation of a member’s pensionable earnings can be made in accordance with paragraph (3), written notice of the length of the period of absence to which this regulation applies must be given to the Secretary of State by—

(a) the member, where the member is a type 1 practitioner or a non-GP provider; or

(b) in all other cases, the National Health Service Commissioning Board or relevant Local Health Board.

(12) The notice referred to in paragraph (11) must be provided to the Secretary of State in such form and manner as the Secretary of State may stipulate from time to time.”.

Amendment of regulation 3.A.9

55. In paragraph (4) of regulation 3.A.9 (calculating pensionable earnings of medical practitioners in partnership), after “will be made by” insert “the National Health Service Commissioning Board or” and omit “or Primary Care Trust”.

Amendment of regulation 3.A.10

56.—(1) Regulation 3.A.10 (elections relating to calculation of pensionable earnings in medical partnerships), is amended as follows.

(2) In paragraph (1), omit “Trust or”.

(3) In paragraph (3) and (4)(a)(i), omit “Primary Care Trust or Local Health” and before “Board” insert “host”.

(73) Amended by [S.I. 2008/2263](#), regulation 58; [S.I. 2009/2446](#), regulations 11, 56 and [S.I. 2011/2586](#), regulations 14, 25.

(74) Amended by [S.I. 2008/2263](#), regulation 59 and [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

Amendment of regulation 3.A.13

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

(2) In paragraph (1)(a), after “general dental services” insert “, NHS 111 services”.

(3) After paragraph (1)(c), insert—

“(d) any sums paid in respect of health-related functions exercised under section 75 of the 2006 Act.”.

(4) In paragraph (2)(a), for “vocational trainee” substitute “foundation trainee”.

(5) In paragraph (4), for “or pharmaceutical services” substitute “, health-related functions exercised under section 75 of the 2006 Act, pharmaceutical services or NHS 111 services”.

Amendment of regulation 3.A.15

58. In regulation 3.A.15 (limit on pensionable earnings-dentist performers carrying on deceased person’s business), omit “Primary Care Trust,” and after “Board” insert “, the National Health Service Commissioning Board”.

Amendment of regulation 3.A.16

59. In regulation 3.A.16 (out of hours providers)(75), for—

(a) “Primary Care Trust” (five times) substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”; and

(b) “Trust or Board” (nine times) substitute “Group or Board”.

Amendment of regulation 3.B.4

60.—(1) Regulation 3.B.4 (joining this Section of the Scheme) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Subject to paragraph (3), a person in NHS employment who is eligible to be an active member of this Section of the Scheme becomes such a member, unless absent from work for any reason, on either—

(a) the commencement of the person’s employment; or

(b) in circumstances where the person has previously opted out of this Section of the Scheme under regulation 3.B.5(1), on that person’s—

(i) automatic enrolment date; or

(ii) automatic re-enrolment date, except where the notice referred to in regulation 3.B.5(1) was given within the 12 months immediately preceding that date.”.

(3) For paragraph (3), substitute—

“(3) A person who has previously exercised an option to opt out of this Section of the Scheme in accordance with regulation 3.B.5(1) in respect of an employment in which that person was an active member, and who remains eligible to be such a member in respect of that employment, may opt to join or re-join this Section of the Scheme by giving notice in writing to the employing authority in such form as the Secretary of State requires.”.

(4) Omit paragraph (6).

(75) Substituted by [S.I. 2009/381](#), regulation 55 and amended by [S.I. 2010/1634](#), regulations 8, 16(1), (3), [S.I. 2011/2586](#), regulations 14, 28(a)(i), (ii), (b)(i), (ii), (iii), (c)(i), (ii), (iii) and by [S.I. 2012/610](#), regulations 9, 11.

Amendment of regulation 3.B.5

61.—(1) Regulation 3.B.5 (opting out of this Section of the Scheme) is amended as follows.

(2) In paragraph (1), after “any” insert “NHS”.

(3) For paragraph (2), substitute—

“(2) A person who opts out under paragraph (1) ceases to be an active member of this Section of the Scheme on the date the notice takes effect and, if applicable, any contributions made by or on behalf of the person for a period of membership after the date on which the notice was effective must be refunded.”.

(4) For paragraphs (4) and (5), substitute—

“(4) A person to whom paragraph (1)(a) of regulation 3.B.4 applies in respect of an employment who gives notice in writing under paragraph (1) of this regulation within one month of the date of commencing that NHS employment, is treated as not having become an active member by virtue of that regulation.

(5) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the person’s—

(a) automatic enrolment date, or

(b) automatic re-enrolment date: this does not apply where the notice was given within 12 months immediately preceding that date.”.

(5) Omit paragraph (6).

(6) In paragraph (7), after “Part 2” insert “or as a locum practitioner”.

(7) After paragraph (7), add—

“(8) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act⁽⁷⁶⁾ and regulations 9 or 15 of the 2010 Regulations⁽⁷⁷⁾ applies (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the Scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the Scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.

Amendment of regulation 3.C.2

62.—(1) Regulation 3.C.2 (members’ contribution rate)⁽⁷⁸⁾ is amended as follows.

(2) Omit “Trust or” (seventeen times).

(3) For paragraph (4), substitute—

“(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

(4) In paragraph (14) and (15), for “paragraph 2 of this regulation” substitute “this regulation and regulation 3.C.3”.

(5) For paragraph (17) substitute—

⁽⁷⁶⁾ Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Pension Scheme. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.

⁽⁷⁷⁾ Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

⁽⁷⁸⁾ Substituted by [S.I. 2009/381](#), regulation 55 and amended by [S.I. 2010/1634](#), regulations 8, 16(1), (2), (3) and by [S.I. 2011/2586](#), regulations 14, 28(a)(i), (ii), (b)(i), (b)(ii), (iii), (c)(i), (ii), (iii) and by [S.I. 2012/610](#), regulations 9, 18.

- “(17) For the purposes of this regulation, “the relevant table” means—
- (a) in respect of the 2012-2013 scheme year, table 1;
 - (b) in respect of the 2013-2014 scheme year, table 2.

Table 1**Scheme Year 2012-2013**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2**Scheme Year 2013-2014**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

Amendment of regulation 3.C.5

- 63.**—(1) Regulation 3.C.5 (payment of contributions)(79) is amended as follows.
- (2) In paragraphs (2), (4) to (10) and (16) to (18), omit “Trust or” (twenty three times in total).
 - (3) For paragraph (11), substitute—

“(11) If a locum practitioner is liable to pay contributions under paragraph (10) in respect of pensionable locum work for an employing authority, that employing authority must pay C3 contributions to the host Board.”.

(79) Amended by S.I. 2009/2446, regulations 11, 103, Schedule 2, part 1, paragraph 1(a).

(4) In paragraph (12), in sub-paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”.

(5) For paragraph (13), substitute—

“(13) If C3 contributions are payable for a locum practitioner under paragraph (11) in respect of pensionable locum work carried out for an employing authority, those contributions must be paid to—

- (a) the host Board if the employing authority is not that host Board;
- (b) the Secretary of State if the employing authority is the host Board.”.

(6) For paragraph (19), substitute—

“(19) Paragraph (19A) applies where, despite the provisions of this regulation—

- (a) a type 1 or type 2 practitioner, or a locum practitioner has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions.

(19A) The Secretary of State may recover the amount of any unpaid contributions referred to in paragraph (19)—

- (a) where an employing authority has ceased to exist and paragraph (a) of that sub-paragraph applies, by adding the amount of those unpaid contributions to the amount of contributions the practitioner in question is due to pay to the host Board: that practitioner is to record the amount of those unpaid contributions in a certificate referred to in regulation 2.J.14; or
- (b) by deduction from any payment of a benefit to, or in respect of, the member entitled to that benefit: such a deduction must be to the member’s advantage and is subject to the member’s consent.

(19B) Paragraph (19A) is without prejudice to any other method of recovery the Secretary of State may have.”.

Amendment of regulation 3.C.11

64.—(1) Regulation 3.C.11 (cancellation of options under regulation 3.C.6) is amended as follows.

(2) In the heading , for “3.C.8” substitute “3.C.6”;

(3) In paragraph (4), after “such an option” insert “in accordance with paragraph (3),”.

(4) After paragraph (4), add—

“(5) If, after the exercise of the option under regulation 3.C.6, the Secretary of State has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Secretary of State may cancel the option by giving the member notice in writing.

(6) If the Secretary of State cancels such an option in accordance with paragraph (5)—

- (a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods, and
- (b) any periodical payments made prior to the date of cancellation shall be returned to the member.”.

Amendment of regulation 3.C.13

65. In paragraph (4) of regulation 3.C.13 (effect of death or early payment of pension after option exercised under regulation 3.C.6, 3.C.8 or 3.C.9), for “If a member” substitute “Subject to regulation 3.C.11(5) and (6), if a member”.

Amendment of regulation 3.D.5

66. In regulation 3.D.5 (partial retirement (members aged at least 55))(80), omit “Trust or” (twice).

Amendment of regulation 3.E.11

67. For paragraph (6) of regulation 3.E.11 (amount of children’s pension under regulation 3.E.8: deceased pensioner members), substitute—

“(6) In a case within paragraph (4)(a) or (c), the rate of the pension in respect of the dependent child or children for the period of 6 months beginning with the deceased’s death is equal to the greater of—

- (a) the rate of the member’s pension at the date of death disregarding any reduction made under Chapter 2.H (abatement) and any additional pension, and
- (b) the amount of children’s pension that would otherwise be payable under these Regulations.”.

Amendment of regulation 3.H.1

68. Omit paragraph (6) of regulation 3.H.1(81) (application of chapter 3.H).

Amendment of regulation 3.H.3

69.—(1) Regulation 3.H.3 (reduction of pension) is amended as follows.

(2) In paragraphs (1) and (2) for “scheme year” substitute “financial year”.

(3) For paragraphs (6) and (7) substitute—

“(6) For the purpose of calculating the reduction to be made under paragraph (1) in respect of any part of a financial year, the amount of the member’s previous pay will be reduced proportionately.”.

Amendment of regulation 3.H.4

70. In regulation 3.H.4 (meaning of “relevant income”), for “scheme year” (twice) substitute “financial year”.

Amendment of regulation 3.H.5

71. In regulation 3.H.5 (meaning of “previous earnings”: general), for “scheme year” (three times) substitute “financial year”.

Amendment of regulation 3.H.6

72. In regulation 3.H.6 (employed pensioners with more than one pension), for “scheme year” (four times) substitute “financial year”.

(80) Amended by S.I. 2009/regulation 58(a), (b), (c) and by S.I. 2009/2446, regulations 11, 70.

(81) Amended by S.I. 2009/2446, regulations 11, 103, Part 2, Part 1, paragraph 1(a) and by S.I. 2012/610, regulations 9, 15.

Amendment of regulation 3.H.7

73. In regulation 3.H.7 (provisional reductions and later adjustments), for “scheme year” (eight times) substitute “financial year”.

New regulation 3.J.2A

74. After regulation 3.J.2 (claims for benefits), insert—

“3.J.2A Provision of information: continuing entitlement to benefit

(1) The Secretary of State may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Secretary of State with all or any of the following material—

- (a) evidence of the person’s identity;
- (b) the person’s contact details;
- (c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Secretary of State may withhold all, or any part of, any benefit payable to that person .”.

Amendment of regulation 3.J.14

75. In regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates)(82), omit “Trust or” (eleven times).

Amendment of regulation 3.K.3

76. In regulation 3.K.3 (service and pensionable earnings credited from the 1995 Section)(83), omit “Trust or” (twice).

PART 4

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

Part 4: General

77. The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(84) are amended in accordance with this Part.

Amendment of regulation 2

78. In paragraph (1) of regulation 2 (interpretation), at the appropriate place in the alphabetical order, insert—

““selected authorised provider” means an authorised provider selected by the Secretary of State including an authorised provider to whom contracts of insurance are transferred as

(82) Substituted by [S.I. 2008/381](#), regulation 83 and amended by [S.I. 2011/2586](#), regulations 14, 35.

(83) Inserted by [S.I. 2009/2446](#), regulations 11, 94.

(84) [S.I. 2000/619](#).

part of an insurance business transfer scheme for the purposes of Part VII of the Financial Services and Markets Act 2000(85).”.

Amendment of regulation 4

79. In paragraph (4A)(86) of regulation 4 (payment and amount of additional voluntary contributions), in the definition of “employer”, omit “Trust or”.

Amendment of regulation 15

80. In paragraph (1)(87) of regulation 15 (payments by the Secretary of State), after “authorised provider” insert “or a selected authorised provider”.

PART 5

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

Part 5: General

81. The National Health Service (Injury Benefits) Regulations 1995(88) are amended in accordance with this Part.

Amendment of regulation 2

82. In regulation 2 (interpretation), in the definition of—

- (a) “APMS contract”(89) “GMS practice”(90), and “medical performers list”(91), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (b) “APMS contractor”(92), in paragraph (a), for—
 - (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”; and
 - (ii) “section 83(2)(b)” substitute “section 83(2)”;
- (c) “average remuneration”—
 - (i) in paragraph (c) for “regulation 4(3)”, substitute “regulation 4(3A) or (3D)”;
 - (ii) in paragraph (d) for “regulation 4(4) or (5)”, substitute “regulation 4(4), (4B), (5) or (5C)”;
- (d) “employing authority”—
 - (i) omit paragraphs (za) and (bb); and
 - (ii) after paragraph (h), insert—
 - “(i) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012;

(85) 2000 c. 8.

(86) Inserted by S.I. 2008/655, regulation 2(1), (5)(b).

(87) Substituted by S.I. 2010/492, regulation 54(1), (6)(a).

(88) S.I. 1995/866.

(89) Amended by S.I. 2008/655, regulation 3(1), (20)(a), (b).

(90) Substituted by S.I. 2008/655, regulation 3(1), (2)(a), (b), and amended by S.I. 2010/492, regulation 53(1), (2)(a)(i), (ii).

(91) Substituted by S.I. 2008/655, regulation 3(1), (2)(a), (b).

(92) Amended by S.I. 2011/2586, regulation 36.

- (j) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012;” and
- (e) “PMS practice”, for—
 - (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”; and
 - (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”.

Amendment of regulation 3

- 83.** In paragraph (1) of regulation 3 (persons to whom the regulations apply)—
- (a) in sub-paragraph (k)(93), for “and is” substitute “and was, prior to 31st March 2013,”;
 - (b) in the full-out words, for “sustains an injury or contracts a disease” substitute “sustains an injury before 31st March 2013, or contracts a disease before that date,”.

Amendment of regulation 4

- 84.**—(1) Regulation 4 (scale of benefits) is amended as follows.
- (2) In paragraph (1)—
- (a) for “Subject to paragraph (5), benefits” substitute “Benefits”;
 - (b) after “disease” insert “and who makes a claim in accordance with regulation 18A”.
- (3) In paragraph (2)—
- (a) after “ceases to be employed”, insert “before 31st March 2018”;
 - (b) after “paragraph (5)” insert “or (5A)”;
 - (c) for “reduced at that date”, substitute “permanently reduced at the date that person ceases that employment”.
- (4) After paragraph (2), insert—
- “(2A) This paragraph applies to a person to whom regulation 3(1) applies who—
- (a) ceases employment on or after 31st March 2018 but before 31st March 2038 by reason of the injury or disease, and
 - (b) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.
- (2B) Where paragraph (2A) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of the person’s cessation of employment an annual allowance of the amount referred to in paragraph (2C).
- (2C) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person’s average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person’s service in relation to the degree by which that person’s earning ability is permanently reduced at the date that person ceases that employment: for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.
- (2D) Evidence is compelling if—
- (a) it is reliable,

- (b) its value for understanding and determining the person's claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(5) For paragraph (3), substitute—

“(3) This paragraph applies to a person to whom regulation 3(1) applies who—

- (a) ceases to be employed before 31st March 2018 other than by reason of the injury or disease,
- (b) at the date of ceasing that employment has not attained normal benefit age,
- (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
- (d) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3A) Where paragraph (3) applies the Secretary of State may pay from the date that the person attains normal benefit age or, as the Secretary of State may in any particular case allow, from the date that person suffers the reduction in earning ability referred to in paragraph (3)(c), an annual allowance of the amount referred to in paragraph (3B).

(3B) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person's average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person's service in relation to the degree by which that person's earning ability is permanently reduced at the date referred to in paragraph (3A): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

(3C) This paragraph applies to a person to whom regulation 3(1) applies who—

- (a) ceases employment on or after 31st March 2018 but before 31st March 2038 other than by reason of the injury or disease,
- (b) at the date of ceasing employment has not attained normal benefit age,
- (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
- (d) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3D) Where paragraph (3C) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date that the person attains normal benefit age or, as the Secretary of State may in any particular case allow, from the date that person suffers the reduction of earning ability referred to in paragraph (3C), an annual allowance of the amount referred to in paragraph (3E).

(3E) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person's average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person's service in relation to the degree by which that person's earning ability is permanently reduced at the date referred to in paragraph (3D): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

(3F) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person's claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

- (6) In paragraph (4) after “in that regulation” insert “before 31st March 2018”.
- (7) After paragraph (4), insert—
- “(4A) This paragraph applies to a person to whom regulation 3(1) applies who suffers a permanent reduction in the emoluments of an employment mentioned in that regulation on or after 31st March 2018 but before 31st March 2038.
- (4B) Where paragraph (4A) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of that reduction an annual allowance of the amount referred to in, and calculated in accordance with, paragraph (4).
- (4C) Evidence is compelling if—
- (a) it is reliable,
 - (b) its value for understanding and determining the person’s claim for benefit is substantial, and
 - (c) it is highly probative of that claim.”.
- (8) In paragraph (5), after “1991” insert “but before 31st March 2018”.
- (9) In paragraph (5A), for “of his” substitute “of that person before 31 March 2013”.
- (10) After paragraph (5A), insert—
- “(5B) This paragraph applies to a person to whom regulation 3(1) applies who, on or after 31st March 2018 but before 31st March 2038, is or was on leave of absence with reduced emoluments by reason of the injury or disease.
- (5C) Where paragraph (5B) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of the reduction of the person’s emoluments, an annual allowance of the amount referred to in paragraph (5D): the annual allowance is without regard to any reduction in the person’s earning ability.
- (5D) That amount is an amount, if any, which when added to the value of Amount A will provide an income of 85 per cent of the person’s average remuneration: for these purposes Amount A is to be expressed as an annual amount.
- (5E) Amount A is the aggregate of—
- (a) the emoluments payable to the person during that person’s leave of absence, and
 - (b) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) (including the value of any equivalent benefits payable under the enactments consolidated by the Social Security Contributions and Benefits Act 1992).
- (5F) Evidence is compelling if—
- (a) it is reliable,
 - (b) its value for understanding and determining the person’s claim for benefit is substantial, and
 - (c) it is highly probative of that claim.”.
- (11) In paragraph (6) , after sub-paragraph (b)(vi) add—
- “(vii) an injury allowance payable on or after 31st March 2013 in accordance with the Terms and Conditions of the person’s employment.”.
- (12) After paragraph (10), add—
- “(11) In paragraph (6) of this regulation “injury allowance” means the allowance by that name referred to in the NHS Terms and Conditions of Service Handbook.”.

Amendment of regulation 4A

85.—(1) Regulation 4A (recovery of costs)⁽⁹⁴⁾ is amended as follows.

(2) In paragraph (2) of regulation 4A (recovery of costs), for “paragraph (2), (3), (4)” substitute “paragraphs (2), (2B), (3A), (3D), (4), (4B)”.

(3) In paragraph (6)—

(i) for “Primary Care Trust” substitute “the National Health Service Commissioning Board”;

(ii) for “as if he were an officer of the” substitute “as if that person were an officer of the National Health Service Commissioning Board or”;

(iii) after “Local Health Board” omit “or Primary Care Trust”.

(4) In paragraph (7)—

(a) after “Committee”, insert “before 31st March 2013”;

(b) after “that Primary Care Trust”, insert “before that date and, on or after that date, as if that person were an officer employed by the National Health Service Commissioning Board”.

Amendment of regulation 18A

86.—(1) Regulation 18A (claims for benefits) is amended as follows.

(2) At the end of paragraph (1), insert (as full out words) “This is subject to paragraph (1A).”.

(3) After paragraph (1), insert—

“(1A) No person shall be entitled to a benefit under regulation 4(2B), (3D), (4B) or (5C) unless that person—

(a) makes a claim for it; and

(b) the claim is made within a period of 6 months, or such longer period as the Secretary of State decides is reasonable, commencing with the date on which the person became aware, or in the view of the Secretary of State the date on which it is reasonable to expect them to have become aware, that they may be a person to whom regulation 3(1) applies.”.

(4) After paragraph (3), add—

“(4) This regulation applies to claims for benefits made before 31st March 2038 and no entitlement to benefit arises if the date of the claim is on or after that date.

(5) This regulation is subject to regulation 18B.”.

New Regulation 18B

87. After regulation 18A (claims for benefits), add—

“18B Claims: Additional matters

(1) Other than a claim in respect of a benefit referred to in regulation 4(5) or (5A), a claim for benefit under Part II or Part III of these Regulations is to be made to the Secretary of State in such form as the Secretary of State is willing to accept.

(2) A claim in respect of a benefit referred to in regulation 4(5) or (5A) is to be made to the person’s employing authority in such form and in such a manner as that authority may accept.

⁽⁹⁴⁾ Inserted by [S.I. 1997/646](#), regulation 5. Paragraphs (6) and (7) were substituted for paragraph (6) by [S.I. 2000/606](#), regulations 2, 6 and paragraph (6) was further substituted by [S.I. 2006/600](#), regulation 25.

(3) A claim must be accompanied by all the medical evidence necessary to determine whether conditions of entitlement for the benefit are satisfied.

(4) In the case of a claim for a benefit which is to be made to the Secretary of State, if the Secretary of State notifies that person in writing that the Secretary of State so requires, that person is to provide any specified relevant information including medical evidence that is in that person's possession or which that person can reasonably be expected to obtain.

(5) In the case of a claim for a benefit which is to be made to a person's employing authority, if that authority notifies that person in writing that it so requires, that person is to provide any specified relevant information including medical evidence that is in that person's possession or which that person can reasonably be expected to obtain.

(6) In the case of a claim which is to be made to the Secretary of State, the date of the claim is to be the date on which the form the Secretary of State is willing to accept is received by the Secretary of State.

(7) In the case of a claim which is to be made to the person's employing authority, the date of the claim is to be the date on which that authority receives that claim in the form and manner it accepts."

Amendment of regulation 21A

88.—(1) Regulation 21A (decisions by medical practitioners and other persons) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (a), for "regulation 4(2), (3) or (4)" substitute "regulation 4(2), (2B), (3A), (3D), (4) or (4B)";
- (b) in sub-paragraph (b), after "regulation 4(5)" insert "or (5C)".

(3) After paragraph (2), add—

"(3) A person or authority referred to in paragraph (2) must record in writing the date on which that person or authority considers the injury or disease in question was sustained or contracted."

Amendment of regulation 21B

89. After paragraph (3) of regulation 21B (notification requirements), add—

"(4) A person who is in receipt of a benefit under Part II of these Regulations must notify the Secretary of State within 14 days, and in writing, of any change in the person's earnings or employment."

Signed by authority of the Secretary of State for Health.

25th February 2013

Dr Daniel Poulter
Parliamentary Under-Secretary of State
Department of Health

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We consent

25th February 2013

Mark Lancaster
David Evennett
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations further amend the National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300) (“the 1995 Regulations”), the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) (“the 2008 Regulations”), the National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) (“the Injury Benefits Regulations”) and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) (“the Additional Voluntary Contributions Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from a date before the date of commencement. Section 12(1) of the Superannuation Act 1972 (c.11) provides authority for the regulations specified in regulation 1(3) to (6) to take effect as from a date earlier than the making of these Regulations.

These Regulations—

(1) Make amendments in order to reflect the organisational changes in the NHS as a result of the provisions of the Health and Social Care Act 2012. That Act abolishes Primary Care Trusts and Strategic Health Authorities with effect from 31 March 2013. Responsibility for commissioning health services will transfer to the National Health Service Commissioning Board and Clinical Commissioning Groups with effect from 1 April 2013. These changes are reflected in the following amendments: 3(3)(a), (b)(i) and (ii), (c)(i) and (iii), (d), (e)(iii), (f), (g), (h), (j)(ii), (k) and (5)(a), 4, 16(3), (4)(b) and (5), 21(2)(a)(ii), (iii) and (iv)(bb), (b), (3)(a) and (b), (4)(a), (d)(i), (5)(b), (6), (8) (9)(d) and (e) and (11), 25(3)(a), (b), (c), (d)(ii), (e)(i) and (iv), (f), (g), (h)(ii), (i), (j)(i), (k), (l), (m) and (n) and (4)(a), 27(3), (4) and (5), 28, 31(2), 33(3), 34, 50, 51(2)(except the definitions of “foundation trainee” and “NHS 111 services”), (3)(a), (b), (c) and (d), (e)(ii), (f)(i), (iii) and (iv), (g), (h), (i)(ii) and (iii), (j), (k)(i), (l), (m), (n) and (o), (p)(ii), (q) and (5)(a), 53(2) and (6)(a), 55, 56, 58, 59, 62(2), 63(2), 66, 75, 76, 79, 82(a), (b), (d) and (e) and 85(3).

(2) Apply increases to member contribution rates with effect from 1 April 2013: regulations 7, 21(9)(a), 32(2), 33(4) and 62(5).

(3) Revoke cost-sharing provisions and associated requirements to make historic valuations: regulations 19, 20, 21(9)(b), 23, 24, 32(3), 33(2), 62(3).

(4) Introduce new requirements on the auto-enrolment of members with effect from 1 October 2012 in accordance with requirements in the Pensions Act 2008 and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (S.I. 2010/772): regulations 3(2) (except the definitions of “foundation trainee” and “specialist trainee in general practice”) and (5)(b), 5(3), 6, 25(2)(except NHS 111 services definition), 25(4)(b), 29, 30, 51(2)(except the definitions of “foundation trainee” and “NHS 111 services”) and (5)(b), 60, 61(except (6)).

(5) Simplify the options open to employing authorities in relation to the payment of redundancy benefits and link entitlement to such benefits under the Regulations to entitlement to an NHS redundancy pension in a member’s terms and conditions of service: regulations 8, 9, 35 and 38.

(6) Close the NHS Injury Benefits Scheme in respect of injuries sustained or diseases contracted on or after 31 March 2013 and put in place transitional arrangements with regard to injuries sustained or diseases contracted before that date: regulations 82(c), 83, 84, 85(2) and (4), 86, 87, 88 and 89.

(7) Make certain miscellaneous and technical amendments and corrections regulations: 3(2) (foundation trainee and specialist trainee definitions), (3)(b)(iii), (c)(ii), (e)(i) and (ii), (i), (j)(i) and (4), 5(2), 10, 11, 12, 13, 14, 15, 16(2) and (4)(a), 17, 18, 21(2)(a)(i), (v)(aa) and (cc), (c), (3)(c),

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(4)(b), (c), (d)(ii) and (e), (5)(a), (7), (9)(c), (f), (g), (h) and (i), and (10), 25(2)(NHS 111 services definition), 25(3)(d)(i), (e)(ii), (h)(i) and (j)(ii), 26, 27(2), 31(3), 36, 37, 39, 40, 41, 42 to 49, 51(2) (except the definitions of “foundation trainee” and “NHS 111 services”), 51(3)(e)(i), (f)(ii), (i)(i), (k)(ii), (p)(i) and (4), 52, 53(3), (4), (5), (6)(b) and (7), 54, 57, 61(5), 62(4), 63(3), (4), (5) and (6), 64, 65, 67, 68, 69 to 74, 78 and 80.