
STATUTORY INSTRUMENTS

1998 No. 2216

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service Pension Scheme
Amendment (No. 2) Regulations 1998**

Made - - - - *9th September 1998*
Laid before Parliament *10th September 1998*
Coming into force - - *1st October 1998*

The Secretary of State for Health, in exercise of his powers under section 10(1) and (2) and (3A) of, and Schedule 3 to, the Superannuation Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate⁽²⁾, and with the consent of the Treasury⁽³⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service Pension Scheme Amendment (No. 2) Regulations 1998 and shall come into force on 1st October 1998.

Amendment of the National Health Service Pension Scheme Regulations 1995

2. The National Health Service Pension Scheme Regulations 1995⁽⁴⁾ shall be amended in accordance with regulations 3 to 9 below.

Amendment of regulation A2

3. In regulation A2 (interpretation)—
(a) after the definition of “contracting-out requirements”, insert the following definitions—

(1) 1972 c. 11. Section 10(1)(a) was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c. 32).
(2) See section 10(4) of the Superannuation Act 1972.
(3) 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).
(4) S.I. 1995/300; the relevant amending instruments are S.I. 1997/1888 and S.I. 1998/666.

““dental hygienist” means a person whose name is included in the roll of dental hygienists referred to in regulation 21 of the Dental Auxiliaries Regulations 1986(5);

“dental list” means a list prepared in accordance with regulations made under section 36(1)(a)(6) of the 1977 Act;

“dental pilot scheme employee” means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by an individual providing those services;

“dental therapist” means a person whose name is included in the roll of dental therapists referred to in regulation 25 of the Dental Auxiliaries Regulations 1986;”;

- (b) after the definition of “guaranteed minimum pension”, insert the following definition–

““the health service” has the meaning given in section 128(1)(7) of the 1977 Act;”

;

- (c) after the definition of “medical list”(8), insert the following definition–

““medical pilot scheme employee” means an individual who, in connection with the provision of personal medical services in accordance with a pilot scheme, is employed by an individual providing those services;”;

- (d) after the definition of “mental health officer”, insert the following definition–

““NHS dental employee” means an individual who, in connection with the provision of dental health services in the health service, is employed by–

- (a) a National Health Service trust;
- (b) a Health Authority;
- (c) a registered dentist; or
- (d) a registered dentist who is providing personal dental services in accordance with a pilot scheme;”;

- (e) after the definition of “pensionable service”, insert the following definitions–

““personal dental services” has the meaning given in section 1(8) of the 1997 Act;

“personal medical services” has the meaning given in section 1(8) of the 1997 Act;”;

- (f) the definition of “pilot scheme employee”(9) shall be deleted;

- (g) after the definition of “qualifying service”, insert the following definition–

““registered dentist” has the meaning given in section 53(1) of the Dentists Act 1984(10);”.

Amendment of regulation B2

4.—(1) In paragraph (d) of regulation B2 (restrictions on membership) after the word “scheme” for “.” substitute “;”.

- (2) After paragraph (d) of that regulation insert the following paragraphs–

(5) S.I. 1986/887 to which there are amendments not relevant to these Regulations.
 (6) Section 36(1)(a) was amended by section 5(4) of and paragraph 5 of Schedule 3 to the Health and Social Security Act 1984 (c. 48), and by section 41(10) and (11) of and paragraph 73 of Schedule 2 to the Primary Care Act 1997 (c. 46).
 (7) This definition was amended by paragraph 77(c) of Schedule 1 to the Health Services Act 1980 (c. 53).
 (8) This definition was inserted by S.I. 1998/666.
 (9) This definition was inserted by S.I. 1998/666.
 (10) 1984 c. 24.

- “(e) a person, other than a registered dentist or a dental therapist, who is employed as a dental pilot scheme employee otherwise than by a National Health Service trust, and who either—
- (i) was, immediately prior to the commencement of such employment, an NHS dental employee who was not eligible to join the scheme; or
 - (ii) has not previously been in employment as an NHS dental employee;
- (f) a provider of personal dental services under a pilot scheme to whom these Regulations did not apply immediately prior to the commencement of the pilot scheme, other than a registered dentist or a dental therapist.”.

Amendment of regulation D1

5. In paragraph (5) of regulation D1 (contributions by members) for “21st” substitute “19th”.

Amendment of regulation E3

6. For paragraph (4) of regulation E3(11) (early retirement pension (redundancy etc.)) substitute the following paragraph—

- “(4) This regulation shall not apply to—
- (a) a member who is providing piloted services;
 - (b) a member to whom regulation R11(1)(a) or (b) of these Regulations applies; or
 - (c) a member who is a dental pilot scheme employee and who is employed by a provider of piloted services other than a National Health Service trust.”.

Amendment of regulation E4

7. For paragraph (4) of regulation E4(12) (early retirement pension (employer’s consent)) substitute the following paragraph—

- “(4) This regulation shall not apply to—
- (a) a member who is providing piloted services under a pilot scheme;
 - (b) a member to whom regulation R11(1)(a) or (b) of these Regulations applies; or
 - (c) a member who is a dental pilot scheme employee and who is employed by a provider of piloted services other than a National Health Service trust.”.

Amendment of regulation R11

8. For regulation R11(13) (participators in pilot schemes) substitute the following regulation—

“Participators in pilot schemes

- R11.**—(1) For the purposes of these Regulations, for the duration of any pilot scheme—

- (a) a registered medical practitioner or a registered dentist—
 - (i) who is, in relation to the pilot scheme, a person providing piloted services, a medical pilot scheme employee, or a dental pilot scheme employee; and

(11) Regulation E3(4) was inserted by S.I. 1998/666. Regulation E3(3) was inserted by S.I. 1997/1888.

(12) Regulation E4(4) was inserted by S.I. 1998/666. Regulation E4(3) was inserted by S.I. 1997/1888.

(13) Regulation R11 was inserted by S.I. 1998/666.

- (ii) who, immediately prior to the commencement of the pilot scheme, was a member of the scheme by reason of his employment as a practitioner, shall be treated as a practitioner employed by the relevant Health Authority;
- (b) a registered dentist who is engaged, under a contract for services, by a person providing piloted services to carry out personal dental services in accordance with a pilot scheme shall be treated as a practitioner employed by the relevant Health Authority;
- (c) a registered dentist shall be treated as an officer if–
 - (i) he is a dental pilot scheme employee; and
 - (ii) immediately prior to the commencement of the pilot scheme he was a member by virtue of his employment as an officer; and
 - (iii) his name was at that time included in a dental list immediately prior to the commencement of the pilot scheme;
- (d) a registered medical practitioner or a registered dentist, to whom paragraph (a) above does not apply, shall–
 - (i) if he is providing piloted services, be treated as a practitioner employed by the relevant Health Authority; or
 - (ii) if he is a medical pilot scheme employee or a dental pilot scheme employee, be treated as an officer employed by the provider of the piloted services;
- (e) a person who is providing piloted services shall be liable to pay contributions under regulation D2 in respect of a member to whom paragraph (b) above applies, or who is employed by him as a medical pilot scheme employee, or as a dental pilot scheme employee;
- (f) a member who, immediately prior to the commencement of a pilot scheme–
 - (i) was employed as an NHS employee or as an NHS dental employee and was not a registered dentist;
 - (ii) was employed as a medical pilot scheme employee, and was not a registered medical practitioner; or
 - (iii) was employed as a dental pilot scheme employee, and was not a registered dentist;
 and who, after the commencement of the pilot scheme, is providing piloted services, shall be treated as a whole-time officer employed by the relevant Health Authority;
- (g) a medical pilot scheme employee, who is employed otherwise than by a National Health Service trust, and to whom paragraph (a) or (d)(ii) does not apply, shall be treated for the purposes of these Regulations as if he were practice staff;
- (h) a person other than a registered dentist who–
 - (i) is employed as a dental pilot scheme employee otherwise than by a National Health Service trust;
 - (ii) immediately prior to the commencement of such employment, was employed by a National Health Service trust or by a Health Authority as an NHS dental employee; and
 - (iii) was at that time a member,
 shall continue to be eligible to be a member;
- (i) a dental therapist who–

- (i) is a provider of piloted services or is a dental pilot scheme employee; and
- (ii) immediately prior to the commencement of the dental pilot scheme was not a member,

shall be eligible to be a member.

(2) In paragraph (1) above “relevant Health Authority” means the Health Authority which has made an agreement with a person for that person to provide piloted services in the Health Authority’s area.”.

Amendment of Schedule 2

9.—(1) For paragraph 6(2)(b)(**14**) of Schedule 2 (medical and dental practitioners—meaning of “pensionable earnings” in relation to other practitioners) substitute the following paragraph—

“(b) a practitioner employed as a medical or dental pilot scheme employee, or to whom regulation R11(1)(b) applies, “pensionable earnings” means all salary or wages paid to the practitioner in respect of employment as a practitioner, but does not include bonuses or payments made to cover expenses or for overtime.”.

(2) In paragraph 19 of that Schedule (members absent from work)—

- (i) in sub-paragraph (6)(a)(**15**) after the word “medical” insert the words “or dental”;
- (ii) in sub-paragraph (6)(b) before the word “pilot” where that word first appears, insert the words “medical or dental”.

Signed by authority of the Secretary of State for Health.

7th September 1998

Alan Milburn
Minister of State,
Department of Health

We consent to the making of these Regulations

9th September 1998

Jim Dowd
David Jamieson
Lords Commissioners of Her Majesty’s Treasury

(14) Sub-paragraph (2) was inserted by S.I. [1998/666](#).

(15) Sub-paragraph (6) was inserted by S.I. [1998/666](#).

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Pension Scheme Regulations 1995 (“the principal Regulations”) which provide for the superannuation of persons engaged in the National Health Service.

Regulation 3 amends the interpretation provisions in regulation A2 of the principal Regulations to add further definitions concerned with the introduction of piloted dental services under the National Health Service (Primary Care) Act 1997.

Regulation 4 amends regulation B2 of the principal Regulations to add a further restriction on membership of the National Health Service Pension Scheme.

Regulation 5 amends regulation D1(5) of the principal Regulations in order to comply with the provisions of section 49(8) of the Pensions Act 1995.

Certain providers and performers of piloted services are excluded from regulations E3 and E4 which are concerned with pensions for early retirement on grounds of redundancy, or with the employer’s consent (regulations 6 and 7).

A new regulation R11 is substituted in regulation 8, which provides for the application of the principal Regulations in relation to persons engaged in the provision of services under dental pilot schemes introduced in accordance with the National Health Service (Primary Care) Act 1997.

Regulation 9 makes minor amendments to Schedule 2 to the principal Regulations.

These Regulations do not impose any costs on business.