
STATUTORY INSTRUMENTS

2007 No. 3280

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Pension Scheme, Injury Benefits,
Additional Voluntary Contributions and Compensation
for Premature Retirement) Amendment Regulations 2007**

Made - - - - *15th November 2007*
Laid before Parliament *22nd November*
2007
Coming into force - - *14th December 2007*

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

In accordance with section 10(4) of that Act, he has consulted with representatives of persons likely to be affected by these Regulations, as appeared to him to be appropriate⁽³⁾.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service (Pension Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) Amendment Regulations 2007.

(2) These Regulations shall come into force on 14th December 2007 and shall have effect from 14th December 2007, except as follows—

- (a) regulation 2(5), (7), (8) and (18)(a) shall have effect from 6th March 1995;
- (b) regulation 2(12)(b)(i), (c) and (d) shall have effect from 1st April 2007;
- (c) regulation 2(13)(a) and (b) shall have effect from 10th May 2000; 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); section 12(2) was amended by section 10(1) of the Pensions (Miscellaneous Provisions) Act 1990; section 24 was amended by section 13(1) of the Police Pensions Act 1976 (c.35).

(2) 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).

(3) See section 10(4) of the Superannuation Act 1972.

- (d) regulation 2(13)(c) shall have effect from 5th December 2005.

Amendments to the National Health Service Pension Scheme Regulations 1995

2.—(1) The National Health Service Pension Scheme Regulations 1995(4) shall be amended as follows.

(2) In regulation A2—

- (a) omit the definitions of “the 1977 Act”, “GDS contractor”, “health care professional”, “NHS dental employee”, “NHS employee”, “personal medical services” and “section 28C arrangements”;
- (b) insert each of the following definitions in the appropriate place in alphabetical order—
- ““the 2006 Act” means the National Health Service Act 2006(5);”;
- ““the 2006 (Wales) Act” means the National Health Service (Wales) Act 2006(6);”;
- ““Scheme Actuary” means the actuary appointed from time to time by the Secretary of State to provide advice in connection with the scheme;”;
- ““section 50 arrangements” has the meaning given by the 2006 (Wales) Act;”;
- ““section 64 arrangements” has the meaning given by the 2006 (Wales) Act;”;
- ““section 92 arrangements” has the meaning given by the 2006 Act;”;
- ““section 107 arrangements” has the meaning given by the 2006 Act;”;
- (c) in the definitions of “APMS contract” and “APMS contractor”, for “section 16CC(2)(b) of the 1977 Act” substitute “, in the case of England, section 80(2)(b) of the 2006 Act or in the case of Wales, section 41(2)(b) of the 2006 (Wales) Act”;
- (d) in the definition of “dental performers list”, for “section 28X of the 1977 Act” substitute “, in the case of England, section 106 of the 2006 Act or, in the case of Wales, section 63 of the 2006 (Wales) Act”;
- (e) in the definition of “dentist performer”, for “section 16CA(2) of the 1977 Act” substitute “in the case of England, section 99(2) of the 2006 Act or, in the case of Wales, section 56(2) of the 2006 (Wales) Act”;
- (f) in the definition of “employing authority”—
- (i) in sub-paragraph (za), for “section 8 of the National Health Service Act 1977” substitute “section 13 of the 2006 Act”;
- (ii) omit sub-paragraph (a);
- (iii) in sub-paragraph (aa), for “section 11 of that Act” substitute “, in the case of England, section 28 of the 2006 Act or, in the case of Wales, section 22 of the 2006 (Wales) Act”;
- (iv) in sub-paragraph (bb), for “section 16A of that Act” substitute “section 18 of the 2006 Act”;
- (v) in sub-paragraph (bbb), for “section 16BA of that Act” substitute “section 11 of the 2006 (Wales) Act”;
- (vi) in sub-paragraph (c), for “section 5 of the National Health Service and Community Care Act 1990” substitute “, in the case of England, section 25 of the 2006 Act or, in the case of Wales, section 18 of the 2006 (Wales) Act”;

(4) S.I. 1995/300, 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 and 2007/2054, and modified by S.I. 1996/971.

(5) 2006 c.41.

(6) 2006 c.42.

- (vii) in sub-paragraph (cc), for “section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003” substitute “section 30(1) of the 2006 Act”; and
 - (viii) after paragraph (j) insert—
 - “(k) as regards a person who is subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967(7), and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;
 - (l) as regards officers of a hospital of such classes as may be provided in an agreement to participate in benefits under these Regulations pursuant to section 235 of the 2006 Act (superannuation of officers of certain hospitals), and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;”;
 - (g) in the definition of “GDS contract”, for “section 28K of the 1977 Act” substitute “, in the case of England, section 100 of the 2006 Act or, in the case of Wales, section 57 of the 2006 (Wales) Act”;
 - (h) in the definition of “GMS contract”—
 - (i) in sub-paragraph (a), for “section 28Q of the 1977 Act” substitute “section 84 of the 2006 Act”;
 - (ii) in sub-paragraph (b), for “section 28Q of the 1977 Act” substitute “section 42 of the 2006 (Wales) Act”; and
 - (iii) for “section 176(3) of the 1977 Act” (twice) substitute “section 176(3) of the Health and Social Care (Community Health and Standards) Act 2003”;
 - (i) in the definition of “GP performer”—
 - (i) for “section 16CC(2)(a) of the 1977 Act” substitute “in the case of England, section 83(2)(a) of the 2006 Act or in the case of Wales, section 41(2)(a) of the 2006 (Wales) Act”; and
 - (ii) for “section 28C arrangements” substitute “an agreement pursuant to section 50 arrangements or section 92 arrangements”;
 - (j) in the definition of “the health service”, for “128(1) of the 1977” substitute “275 of the 2006”;
 - (k) for the definition of “PDS agreement” substitute—
 - ““PDS agreement” means an agreement for the provision of primary dental services pursuant to section 64 arrangements or section 107 arrangements;”;
 - (l) in the definition of “PMS agreement”, for “section 28C arrangements under which primary medical services are provided” substitute “an agreement for the provision of primary medical services pursuant to section 50 arrangements or section 92 arrangements”; and
 - (m) in the definition of “type 2 dental practitioner”, for sub-paragraph (b)(i) substitute—
 - “(i) in the case of England, section 99(2) of the 2006 Act or, in the case of Wales, section 56(2) of the 2006 (Wales) Act; or”.
- (3) In regulation D2—

- (a) in paragraphs (2), (3)(f), (5)(b)(i), (5)(b)(ii), (6)(a), (6)(b), (7)(a) and (7)(b), for “the Government Actuary” substitute “the Scheme Actuary”;
- (b) after paragraph (9) insert—
- “(10) In any particular case the Secretary of State may direct that, for the purposes of this regulation, “employing authority” includes one or more of—
- (a) the transferee under a transfer of staff order pursuant to—
- (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
- (ii) in the case of Wales, section 22(4)(a) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority’s business or functions; and
- (c) the last employing authority of a person to whom these Regulations apply.”.
- (4) In regulations E5(2) and (4) and E6(7)(b) for “the Government Actuary” substitute “the Scheme Actuary”.
- (5) After regulation F1(1) insert—
- “(1A) A lump sum on death shall be payable in accordance with regulation F5 where, on the day they died, the member is—
- (a) under the age of 70;
- (b) in NHS employment;
- (c) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members); and
- (d) except where regulations E2(11) or R4(6) apply, not in receipt of a pension under any of regulations E1 to E5.”.
- (6) In regulation F2(3), for “(3A) below” substitute “(4)”.
- (7) After regulation G2(5) insert—
- “(6) The widow’s pension payable on a member’s death if, on the day they died, the member is—
- (a) under the age of 70;
- (b) in NHS employment;
- (c) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members); and
- (d) except where regulation R4(6) applies, not in receipt of a pension under any of regulations E1 to E5,
- will be as described in paragraph (2) and (3), but with the modifications set out in paragraph (7).
- (7) The modifications referred to in paragraph (6) are—
- (a) in paragraph (2), for “member’s pensionable pay when he died” substitute “member’s final year’s pensionable pay”; and
- (b) in paragraph (3), for “on the day he died” substitute “on his last day of pensionable employment”.”.
- (8) After regulation H3(8) insert—
- “(9) The child allowance payable on a member’s death if, on the day they died, the member is—

- (a) under the age of 70;
- (b) in NHS employment;
- (c) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members); and
- (d) except where regulation R4(6) applies, not in receipt of a pension under any of regulations E1 to E5,

will be as described in paragraphs (2) to (8), but with the modifications set out in paragraph (10).

(10) The modifications referred to in paragraph (9) are—

- (a) in paragraph (2), for “on the day he died” substitute “on his last day of pensionable employment”; and
- (b) in each of paragraphs (6) and (7), for “member’s pensionable pay when he died” substitute “member’s final year’s pensionable pay”.

(9) In regulation J1—

- (a) in paragraph (3), for “the Government Actuary” substitute “the Scheme Actuary”;
- (b) for paragraph (4)(a) substitute—
 - “(a) on making a claim for payment of his benefits under regulation T1 (claims for benefits), or at any time after making such a claim but before the date on which a pension payable to him under the scheme is put into payment; or”.

(10) In paragraphs (1) and (2) of regulation M6, for “the Government Actuary” substitute “the Scheme Actuary”.

(11) In regulations N3A(2)(iii) and N4(2) and (3), for “the Government Actuary” substitute “the Scheme Actuary”.

(12) In regulation P1—

- (a) in paragraph (1), for “or paternity leave” substitute “, paternity leave or parental leave”;
- (b) in paragraph (4)(b)—
 - (i) before “in the case” insert “subject to paragraph (4A),”; and
 - (ii) for “or paternity leave” substitute “, paternity leave or parental leave”;
- (c) after paragraph (4) insert—

“(4A) For the purposes of paragraph (4)(b), the rate of contributions payable shall be the rate that would have been payable on the basis of reduced earnings in accordance with paragraph (3)(a) had the member’s reduced earnings excluded any earnings for a day during which the member returned to work for the purposes of keeping in touch with the workplace.”; and

(d) after paragraph (7) insert—

“(8) For the purposes of this regulation, “maternity leave” includes any day during which the member returns to work for the purposes of keeping in touch with the workplace.”.

(13) In regulation Q1—

- (a) in paragraph (7), for “The” substitute “Subject to paragraph (10), the”;
- (b) after paragraph (9) insert—

“(10) Except in the case of a pension debit member who is a moderate earner, a member may not replace any rights debited as a consequence of a pension sharing order with any

rights which he would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made.

(11) For the purposes of paragraph (10)—

“moderate earner” means a member whose pensionable pay during the tax year preceding the tax year in which his marriage is dissolved or annulled is not more than 25 per cent. of the permitted maximum for the tax year in which the dissolution or annulment occurred;

“pension debit member” means a person whose shareable rights under the scheme are subject to a debit under section 29(1)(a) of the 1999 Act;

“permitted maximum” means the same as in section 590C of the Income and Corporation Taxes Act 1988(8) (earnings cap); and

“tax year” means any year beginning on 6th April and ending on 5th April the following year.”.

(c) in the definition of “moderate earner” in newly inserted paragraph (11), after “his marriage” insert “or civil partnership”.

(14) In regulation Q7(6), for “the Government Actuary” substitute “the Scheme Actuary”.

(15) In regulation R1(3), after “Board” insert “with the modifications described in paragraphs 3, 4, 5, 10 and 23 of Schedule 2”.

(16) In regulation R5(4), after “whole-time employment” insert “and any amount by which the member’s actual final year’s pensionable pay in respect of part time employment exceeds the amount determined will be ignored”.

(17) In regulation S1(5)(b), for “section 18 of the National Health Service (Amendment) Act 1949 or section 104 of the National Health Service Act 1977” substitute “section 235 of the 2006 Act”.

(18) In regulation S4—

(a) after paragraph (1) insert—

“(1A) This regulation shall also apply to a member in respect of whom a pension is payable under regulation E2 (early retirement on grounds of ill-health) who—

(a) returns to pensionable employment after that pension becomes payable; and

(b) on the day they die, is—

(i) under the age of 70;

(ii) in NHS employment;

(iii) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members); and

(iv) except where regulation R4(6) applies, not in receipt of a pension under any of regulations E1 to E5 in respect of his later service.”;

(b) for paragraph (3) substitute—

“(3) If this regulation applies, a lump sum payable on the member’s death shall be payable in addition to any lump sum payable under regulation F2.

(3A) The additional lump sum referred to in paragraph (3) shall be equal to 5 times the amount of the pension that would have been payable to the member had he left NHS employment and been entitled to a pension based on his later service under regulation E1 (normal retirement pension) on the date of the member’s death.”;

(c) in paragraphs (6) and (8), for “paragraph (3)” substitute “paragraph (3A)”.

(19) For regulation T1 substitute—

“A person claiming to be entitled to benefits under these Regulations and his employing authority, including any previous employing authority of his, shall provide such—

- (a) evidence of entitlement; and
- (b) authority or permission as may be necessary for the release by third parties of information in their possession relating to the person so claiming,

as the Secretary of State may from time to time require for the purposes of these Regulations.”.

(20) In regulation T2A, omit paragraphs (3), (4), (5) and (6).

(21) In regulation T7(2), for “the Government Actuary” substitute “the Scheme Actuary”.

(22) In regulation T8(4)—

(a) for the definition of “base rate” substitute—

““base rate” means the Official Bank Rate for the time being quoted by the Bank of England;”;

(b) in the definition of “due date”—

- (i) after “means” insert “the later of”;
- (ii) after sub-paragraph (e) insert—

“and the first day on which the Secretary of State is in possession of all information necessary to be able to calculate the value of the qualifying payment;”;

(c) in the definition of “qualifying payment”, after “these Regulations” insert—

“, and for these purposes—

- (a) any amount paid by way of an interim payment calculated by reference to an expected pension benefit award, pending final calculation of the full value of that benefit; or
- (b) any amount paid that increases the amount of an earlier payment due to a backdated or later increase in pensionable pay,

shall be treated as a separate qualifying payment”; and

(d) omit the definition of “reference banks”.

(23) Omit regulation T8(5).

(24) In regulation U1A, for “by a registered medical practitioner appointed to act on his behalf” substitute—

“by—

- (i) a registered medical practitioner (whether practising on his own or as part of a group); or
- (ii) a body corporate or unincorporate employing such practitioners (whether under a contract of service or for services),

approved by the Secretary of State to act on his behalf”.

(25) In regulation U2, after “Secretary of State” insert “and any dispute shall be resolved by the Secretary of State in accordance with the dispute resolution procedure issued from time to time by her in conformity with section 50 of the Pensions Act 1995(9)”.

(26) In regulation U3, in paragraphs (3) and (4), for “the Government Actuary” substitute “the Scheme Actuary”.

(27) In Schedule 2—

(a) in paragraph 1—

(i) in the definition of “collaborative services”, for “section 26(4) of the 1977 Act” substitute “, in the case of England, section 80(6) of the 2006 Act or in the case of Wales, section 38(6) of the 2006 (Wales) Act”; and

(ii) in the definition of “commissioned services”, for “section 23 of the 1977 Act” substitute “, in the case of England, section 12 of the 2006 Act or in the case of Wales, section 10 of the 2006 (Wales) Act”;

(b) in paragraph 3—

(i) in sub-paragraph (2)(a)(v), for “section 16CC(2)(a) of the 1977 Act” substitute “in the case of England, section 83(2)(a) of the 2006 Act or in the case of Wales, section 41(2)(a) of the 2006 (Wales) Act”;

(ii) in sub-paragraph (2)(b), for “section 81(b) of the National Health Service Act 1977” substitute “in the case of England, section 185(1) of the 2006 Act or in the case of Wales, section 133(1) of the 2006 (Wales) Act”;

(iii) in sub-paragraph (2A)(a), for “sections 28E or 28N of the 1977 Act” substitute “, in the case of England, sections 94, 103 or 109 of the 2006 Act or in the case of Wales, sections 52, 60 or 66 of the 2006 (Wales) Act”; and

(iv) in sub-paragraphs (2B)(a)(ii) and (2C)(b), after “paternity leave” insert “, parental leave”; and

(c) in paragraph 5A(1)(b), after “adoption leave payments” insert “, parental leave payments”.

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

3.—(1) The National Health Service (Injury Benefits) Regulations 1995(10) shall be amended as follows.

(2) In regulation 2(1)—

(a) omit the definition of “the 1977 Act”;

(b) insert the following definitions in the appropriate places in alphabetical order—

““the 2006 Act” means the National Health Service Act 2006”; and

““2006 (Wales) Act” means the National Health Service (Wales) Act 2006.”;

(c) in the definition of “employing authority”—

(i) in sub-paragraph (za), for “section 8 of the National Health Service Act 1977” substitute “section 13 of the 2006 Act”;

(ii) omit sub-paragraph (a);

(iii) in sub-paragraph (aa), for “section 11 of that Act” substitute “, in the case of England, section 28 of the 2006 Act or, in the case of Wales, section 22 of the 2006 (Wales) Act”;

(iv) in sub-paragraph (bb), for “section 16A of that Act” substitute “section 18 of the 2006 Act”;

(10) S.I. 1995/866, amended by S.I. 1997/646, 1998/667 and 2217, 2000/606, 2002/2469, 2003/631, 2004/865, 696 and 1016, 2005/661 and 3074, and 2006/600, and modified by S.I. 1996/971.

- (v) in sub-paragraph (bbb), for “section 16BA of that Act” substitute “section 11 of the 2006 (Wales) Act”;
 - (vi) in sub-paragraph (c), for “section 5 of the National Health Service and Community Care Act 1990” substitute “, in the case of England, section 25 of the 2006 Act or, in the case of Wales, section 18 of the 2006 (Wales) Act”;
 - (vii) in sub-paragraph (cc), for “section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003” substitute “section 30(1) of the 2006 Act”; and
 - (viii) after paragraph (f) insert—
 - “(g) as regards a person who is subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967, and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;
 - (h) as regards officers of a hospital of such classes as may be provided in an agreement to participate in benefits under these Regulations pursuant to section 235 of the 2006 Act (superannuation of officers of certain hospitals), and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;”;
 - (d) in the definition of “GDS contract”, for “section 28K of the 1977 Act (general dental services contracts: introductory)” substitute “, in the case of England, section 100 of the 2006 Act or, in the case of Wales, section 57 of the 2006 (Wales) Act”;
 - (e) in the definition of “GMS contract”, for “section 28Q of the 1977 Act” substitute “, in the case of England, section 84 of the 2006 Act or, in the case of Wales, section 42 of the 2006 (Wales) Act”;
 - (f) in the definition of “the health service”, for “section 128(1) of the 1977” substitute “section 275 of the 2006”;
 - (g) in the definition of “PDS agreement”, for “section 28C of the 1977 Act” substitute “, in the case of England, section 107 of the 2006 Act or, in the case of Wales, section 64 of the 2006 (Wales) Act”;
 - (h) in the definition of “PMS agreement”, for “section 28C of the 1977 Act” substitute “, in the case of England, section 92 of the 2006 Act or, in the case of Wales, section 50 of the 2006 (Wales) Act”; and
 - (i) in the definition of “practitioner”—
 - (i) in sub-paragraph (b)(i), for “section 16CC(2)(a) of the 1977 Act (primary medical services)” substitute “, in the case of England, section 83(2)(a) of the 2006 Act or in the case of Wales, section 41(2)(a) of the 2006 (Wales) Act”; and
 - (ii) in sub-paragraph (b)(ii), for “section 16CA(2) of the 1977 Act (primary dental services)” substitute “, in the case of England, section 99(2) of the 2006 Act or, in the case of Wales, section 56(2) of the 2006 (Wales) Act”.
- (3) In regulation 3(1)(d), for “National Health Service Act 1977” substitute “2006 Act or the 2006 (Wales) Act”.
- (4) In regulation 4(4) omit “permanent”.
- (5) In regulation 4A(2)—
- (a) for “claim is made for” substitute “person is entitled to”; and

- (b) omit “pursuant to that claim”.
- (6) After regulation 4A(7) insert—
- “**(8)** In any particular case the Secretary of State may direct that, for the purposes of this regulation, “employing authority” includes one or more of—
- (a) the transferee under a transfer of staff order pursuant to—
 - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
 - (ii) in the case of Wales, section 22(4)(a) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
 - (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority’s business or functions; and
 - (c) the last employing authority of a person to whom regulation 3(1) applies.”.

(7) For regulation 18A substitute—

“**18A.** A person claiming to be entitled to benefits under these Regulations and his employing authority, including any previous employing authority of his, shall provide such—

 - (a) evidence of entitlement; and
 - (b) authority or permission as may be necessary for the release by third parties of information in their possession relating to that person or that entitlement,

as the Secretary of State may from time to time require for the purposes of these Regulations.”.

(8) In regulation 21A—

 - (a) in paragraph (1) omit “Part II of”;
 - (b) after paragraph (1)(b) insert—
 - “(c) a decision whether a person who has sustained an injury or contracted a disease to which regulation 3(2) applies has died as a result of, or his death was substantially hastened by, the injury or disease, for the purpose of the payment of an allowance referred to in regulations 7, 8 or 9.”;
 - (c) for paragraph (2)(a) substitute—
 - “(a) a decision specified in paragraph (1)(a) or (c), the function may be discharged by—
 - (i) a registered medical practitioner (whether practising on his own or as part of a group); or
 - (ii) a body corporate or unincorporate employing such practitioners (whether under a contract of service or for services),
 approved by the Secretary of State to act on his behalf.”; and
 - (d) for paragraph (2)(b) substitute—
 - “(b) a decision specified in paragraph (1)(b), the function may be discharged by the employing authority of that person or by—
 - (i) a registered medical practitioner (whether practising on his own or as part of a group); or
 - (ii) a body corporate or unincorporate employing such practitioners (whether under a contract of service or for services),
 approved by the Secretary of State.”.

(9) In regulation 22, after “Secretary of State” insert “and any dispute shall be resolved by the Secretary of State in accordance with the dispute resolution procedure issued from time to time by her in conformity with section 50 of the Pensions Act 1995”.

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

4.—(1) The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(11) shall be amended as follows.

(2) In regulation 2(1)—

- (a) in the definition of “authorised fund”, after “Regulations” insert “, or any successor, transmittee or assignee of an authorised provider selected by the Secretary of State”; and
- (b) for the definition of “authorised provider” substitute—
““authorised provider” in relation to any benefit means a person listed in section 154(1)(a) to (g) of the Finance Act 2004(12) in relation to the provision of that benefit;”.

(3) In regulation 21, after “Secretary of State” insert “and any dispute shall be resolved by the Secretary of State in accordance with the dispute resolution procedure issued from time to time by him in conformity with section 50 of the Pensions Act 1995”.

Amendments to the National Health Service (Compensation for Premature Retirement) Regulations 2002

5.—(1) The National Health Service (Compensation for Premature Retirement) Regulations 2002(13) shall be amended as follows.

(2) In regulation 2(1), in the definition of “employing authority”—

- (a) in sub-paragraph (a)—
 - (i) omit “or Health Authority”;
 - (ii) for “section 8 of the National Health Service Act 1977” substitute “section 13 of the 2006 Act”; and
 - (iii) for “section 11 of that Act” substitute “, in the case of England, section 28 of the 2006 Act or, in the case of Wales, section 22 of the 2006 (Wales) Act”;
- (b) in sub-paragraph (b), for “section 5 of the National Health Service and Community Care Act 1990” substitute “, in the case of England, section 25 of the 2006 Act or, in the case of Wales, section 18 of the 2006 (Wales) Act”;
- (c) in sub-paragraph (bb), for “section 1(1) of the Health and Social Care (Community Health and Standards) Act 2003” substitute “section 30(1) of the 2006 Act”;
- (d) omit sub-paragraph (c);
- (e) in sub-paragraph (d), for “section 16A of the National Health Service Act 1977” substitute “section 18 of the 2006 Act”;
- (f) in sub-paragraph (dd), for “section 16BA of the National Health Service Act 1977” substitute “section 11 of the 2006 (Wales) Act”; and
- (g) after paragraph (g) insert—

(11) S.I. 2000/619, amended by S.I. 2001/1428 and 3649, 2002/610, 2005/3074 and 2006/600.

(12) 2004 c.12.

(13) S.I. 2002/1311, amended by S.I. 2002/2469, 2003/631, 2004/696, 2005/3074 and 2006/2919.

- “(h) as regards a person who is subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967, and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;
- (i) as regards officers of a hospital of such classes as may be provided in an agreement to participate in benefits under these Regulations pursuant to section 235 of the 2006 Act (superannuation of officers of certain hospitals), and subject to such modifications to these Regulations as the Secretary of State may in any particular case direct, any employer of such a person that the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;”.

(3) In regulation 15, after “Secretary of State” insert “and any dispute shall be resolved by the Secretary of State in accordance with the dispute resolution procedure issued from time to time by him in conformity with section 50 of the Pensions Act 1995”.

Signed by authority of the Secretary of State for Health.

13th November 2007

Ann Keen
Parliamentary Under Secretary of State,
Department of Health

We consent

15th November 2007

Dave Watts
Steve McCabe
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service Pension Scheme Regulations 1995 (S.I.1995/300) (“the Pension Scheme Regulations”), the National Health Service (Injury Benefits) Regulations 1995 (S.I.1995/866) (“the Injury Benefits Regulations”), the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I.2000/619) (“the AVC Regulations”) and the National Health Service (Compensation for Premature Retirement) Regulations 2002 (S.I.2002/1311) (“the Compensation Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from various dates before commencement.

Regulation 2 amends the Pension Scheme Regulations by—

- updating statutory references to take account of the National Health Service Act 2006 (c.41) and National Health Service (Wales) Act 2006 (c.42);
- removing obsolete definitions from regulation A2 (interpretation);
- providing that certain employers of people subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 (c.28) or the subject of an agreement made pursuant to section 235 of the National Health Service Act 2006 may be treated as employing authorities for the purposes of the Regulations;
- inserting a new definition of “Scheme Actuary” and replacing references to “Government Actuary” with “Scheme Actuary”;
- clarifying regulation D2 (contributions by employing authorities) so that it is clear that amounts due to the Secretary of State pursuant to the Regulations may be recovered from the transferee or successor of a person’s employing authority in the event of any NHS reorganisation;
- extending death in service cover to members whose NHS employment had ceased to be pensionable solely by virtue of having the maximum amount of reckonable service under the scheme;
- clarifying that any request for allocation of pension under regulation J1 (allocation of pension) should be made at the date of claim or before the pension is put into payment;
- providing that parental leave and “keeping in touch” days during maternity leave fall within the scope of regulation P1 (absence because of illness or injury or certain types of leave);
- providing that members who are moderate earners and who have reduced service as a result of dissolution or annulment of marriage (or, after 5th December 2005, civil partnership) may rebuild their service under regulation Q1 (right to buy additional service);
- clarifying that the regulations apply to non-GP Providers with the modifications set out in paragraphs 3 – 5, 10 and 23 of Schedule 2;
- clarifying for regulation R5(4) (comparable whole-time employment) that a part-time member may not pension a greater amount of earnings than a comparable whole-time employment;
- providing for a lump sum to be payable on death in pensionable re-employment under regulation S4 (benefits on death in pensionable employment after pension becomes payable);
- providing in regulation T1 (claims for benefits) that an applicant must provide the Secretary of State with permission to see information relating to that person or their entitlement where such information is held by a third party;

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- removing the benefit waiver provisions in regulation T2A (deduction of tax: further provisions);
- changing the basis on which interest is applied to late payments from the Scheme, including amending the definition of “base rate” to be the Official Bank Rate of the Bank of England;
- clarifying in regulation U1A (determinations by medical practitioners) which of the Secretary of State’s functions may be exercised by medical practitioners in certain circumstances; and
- providing that any dispute relating to the operation of the Regulations shall be resolved by the Secretary of State in accordance with a dispute resolution procedure issued from time to time in conformity with section 50 of the Pensions Act 1995 (c.26).

Regulation 3 amends the Injury Benefits Regulations by—

- updating statutory references to take account of the National Health Service Act 2006 and National Health Service (Wales) Act 2006;
- removing obsolete definitions from regulation 2 (interpretation);
- providing that certain employers of people subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or the subject of an agreement made pursuant to section 235 of the National Health Service Act 2006 may be treated as employing authorities for the purposes of the Regulations;
- removing the requirement for the reduction in emoluments of an employment to be permanent for the purposes of regulation 4(4) (allowance on reduction in emoluments);
- clarifying regulation 4A (recovery of costs) so that it is clear that benefits paid by the Secretary of State pursuant to the Regulations may be recharged to the transferee or successor of a person’s employing authority in the event of any NHS reorganisation;
- providing in regulation 18A (claims for benefits) that an applicant must provide the Secretary of State with permission to see information relating to that person or their entitlement where such information is held by a third party;
- clarifying in regulation 21A (decisions by medical practitioners and others) which of the Secretary of State’s functions may be exercised by medical practitioners and others in certain circumstances; and
- providing that any dispute relating to the operation of the Regulations shall be resolved by the Secretary of State in accordance with a dispute resolution procedure issued from time to time in conformity with section 50 of the Pensions Act 1995.

Regulation 4 amends the AVC Regulations by—

- providing that an authorised fund includes a fund managed by a successor or assignee of the authorised provider selected by the Secretary of State;
- amending the definition of “authorised provider” to refer to the provisions of section 154(1) (a) to (g) of the Finance Act 2004 (c.12); and
- providing that any dispute relating to the operation of the Regulations shall be resolved by the Secretary of State in accordance with a dispute resolution procedure issued from time to time in conformity with section 50 of the Pensions Act 1995.

Regulation 5 amends the Compensation Regulations by—

- updating statutory references to take account of the National Health Service Act 2006 and National Health Service (Wales) Act 2006;
- removing obsolete definitions from regulation 2 (interpretation);
- providing that certain employers of people subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or the subject of an agreement made

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pursuant to section 235 of the National Health Service Act 2006 may be treated as employing authorities for the purposes of the Regulations; and

- providing that any dispute relating to the operation of the Regulations shall be resolved by the Secretary of State in accordance with a dispute resolution procedure issued from time to time in conformity with section 50 of the Pensions Act 1995.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.