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## STATUTORY INSTRUMENTS

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# 2008 No. 2263

## The National Health Service Pension Scheme and Injury Benefits (Amendment) Regulations 2008

### PART 1

#### Amendment of the National Health Service Pension Scheme Regulations 1995

##### Interpretation of Part 1

2. In this Part an alphanumerical reference to a regulation or a reference to a Schedule is a reference to a provision of the National Health Service Pension Scheme Regulations 1995<sup>(1)</sup> bearing that designation.

##### Amendment of regulation A2

3. In regulation A2 (interpretation)—

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

““the 2008 scheme” means the provisions of the National Health Service Pension Scheme set out in the National Health Service Pension Scheme Regulations 2008;”

““electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000<sup>(2)</sup>;”;

(b) in the definition of “APMS contract” and “APMS contractor”, for “80(2)(b)” substitute “83(2)(b)”;

(c) in the definition of “employing authority”, omit paragraph (f);

(d) after the definition of “GDS contract” insert—

““general ophthalmic services” means—

(a) as regards England, mandatory services and additional services as defined in regulation 2(1) of the General Ophthalmic Services Contracts Regulations 2008<sup>(3)</sup>, and

(b) as regards Wales, general ophthalmic services within the meaning of section 71(10) of the 2006 (Wales) Act;”;

(e) after the definition of “GMS practice” insert—

““GOS contract” means a contract under section 117 of the 2006 Act (general ophthalmic services contracts) for the provision of mandatory services and additional services as defined in regulation 2(1) of the General Ophthalmic Services Contracts Regulations 2008;”;

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(1) 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, 2007/2054 and 3280 and 2008/654, and modified by S.I. 1996/971.

(2) 2000 c.7.

(3) S.I. 2008/1185.

- (f) in the definition of “host Trust or Board”, for paragraph (b) substitute—
  - “(b) in respect of a registered medical practitioner, means each Primary Care Trust or Local Health Board with whom the practitioner is contracted, or has entered into an agreement, to provide GMS, PMS or APMS and, where appropriate, on whose medical performers list the practitioner’s name appears;”;
- (g) in the definition of “OOH services”, for “GMS practice to patients to whom the practice is required by its GMS contract” substitute “GMS practice, PMS practice or an APMS contractor to patients to whom the practice or contractor is required by its contract or agreement”;
- (h) after the definition of “OOH services”, insert—
  - ““ophthalmic provider” means a registered medical practitioner who is included in an ophthalmic list kept and published by a Primary Care Trust or Local Health Board pursuant to regulation 6(1) of the National Health Service (General Ophthalmic Services) Regulations 1986<sup>(4)</sup> (ophthalmic list);”;
- (i) for the newly inserted definition of “ophthalmic provider”, substitute—
  - ““ophthalmic provider” means a registered medical practitioner who—
  - (a) as regards England—
    - (i) is included in an ophthalmic performers list prepared and published by a Primary Care Trust pursuant to regulation 3(1) of the National Health Service (Performers Lists) Regulations 2004<sup>(5)</sup> (performers lists); and
    - (ii) holds a GOS contract; and
  - (b) as regards Wales, is included in an ophthalmic list kept and published by a Local Health Board pursuant to regulation 6(1) of the National Health Service (General Ophthalmic Services) Regulations 1986 (ophthalmic list);”;
- (j) in the definition of “type 1 medical practitioner”, after “means” insert “an ophthalmic provider or”.

## **Amendment of regulation B2**

- 4.—(1) Regulation B2 (restrictions on membership) shall be amended as follows.
- (2) In paragraph (1), for sub-paragraph (i) substitute—
  - “(i) that person is a person who has been a member of the 2008 scheme;
  - (j) that person is a person who—
    - (i) ceased to be in pensionable employment on or before 31st March 2008,
    - (ii) on so ceasing was entitled to a preserved pension in accordance with regulation L1,
    - (iii) returns to NHS employment on or after 1st October 2008 and before returning exercises the member’s right to transfer out all of that person’s benefits in the scheme in accordance with regulation M1,
    - (iv) has had a break in pensionable employment for any one period of five years or more beginning with the day immediately following the cessation of employment referred to in paragraph (i) and ending on the day immediately before the employment referred to in paragraph (iii) commences, and
    - (v) is not in receipt of a pension under regulation E2 or E2A;
  - (k) that person is a person who—

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<sup>(4)</sup> S.I.1986/975.

<sup>(5)</sup> S.I. 2004/585.

- (i) is entitled to a preserved pension in accordance with regulation L1,
  - (ii) returns to NHS employment on or after 1st October 2008,
  - (iii) has had a break in pensionable employment for any one period of five years or more beginning with the day immediately following the cessation of the pensionable employment in respect of which that person is entitled to the pension referred to in paragraph (i) and ending on the day immediately before the employment referred to in paragraph (ii) commences, and
  - (iv) is not in receipt of a pension under regulations E2 or E2A.”.
- (3) In paragraph (2)—
  - (i) in sub-paragraph (a), for “NHS Pension Scheme 2008” substitute “2008 scheme”;
  - (ii) after sub-paragraph (b) insert—
    - “(c) a reference to regulations L1, L2, M1 and M2 includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the provisions of the NHS Pension Scheme for England and Wales as set out in these Regulations.”.
- (4) For paragraph (3), substitute—
  - “(3) The Secretary of State may permit a person who would otherwise not be permitted to join the scheme in accordance with sub-paragraphs (1)(f), (g), (h) or (k) to do so if—
    - (a) that person’s NHS employment was transferred to another employer by virtue of—
      - (i) a transfer of undertakings or arrangements equivalent to a transfer of undertakings, and
      - (ii) at no time since that transfer (or the last of them if more than one) has the person had a break in pensionable employment for any one period of five years or more, or
    - (b) that person’s employment is transferred to an employing authority by virtue of—
      - (i) a transfer of undertakings, or
      - (ii) arrangements equivalent to a transfer of undertakings,(whether or not the transferring employer is in the public sector provided that person’s employment was originally transferred out of the public sector); and
    - (c) the employment from which the member is transferred—
      - (i) qualified the member for benefits under an occupational pension scheme, and
      - (ii) the rules of that scheme (in the opinion of the Secretary of State) entitle the member to receive benefits on retirement upon, or prior to, attaining the age of 60 years. ”.
- (5) In paragraph (4) for “(3)(a)”, substitute “(3)”.
- (6) In paragraph (5) for “(3)(b)(ii)”, substitute “(3)(c)(ii)”.

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

- 5. In regulation D1 (contributions by members)—
  - (a) in paragraph (2), after “may” insert “, with the consent of the Treasury.”;
  - (b) in paragraph (2Q)(a), for “2007-2008” substitute “2008-2009”.

### **Amendment of regulation D2**

6. In regulation D2(10)(a)(ii) (contributions by employing authorities), for “22(4)(a)” substitute “22(4)(b)”.

### **Amendment of regulation E2B**

7. For paragraph (2)(b) of regulation E2B (re-assessment of ill health condition determined under regulation E2A), substitute—

- “(b) the member provides further medical evidence to the Secretary of State relating to the satisfaction of the tier 2 condition at the date of the Secretary of State’s consideration and that further medical evidence is provided—
  - (i) in the case of a member who does not engage in further NHS employment during the three year period referred to in (a), before the end of that period;
  - (ii) in the case of a member who does engage in further NHS employment during the three year period referred to in (a), before the first anniversary of the day on which that employment commences or before the end of that period if sooner, and”.

### **Amendment of regulation F2**

8.—(1) Regulation F2 (member dies after pension becomes payable) is amended as follows.

(2) In paragraph (1), for “If” substitute “Subject to paragraph (7), if”.

(3) After paragraph (6) insert—

“(7) Where a member referred to in paragraph (1) has attained the age of 75 at the date of the member’s death—

- (a) the lump sum referred to in that paragraph shall cease to be payable, and
- (b) shall instead be converted into an annual pension to be determined and paid in accordance with paragraph (8).

(8) The pension referred to in paragraph (7) shall be—

- (a) determined in accordance with guidance and tables provided by the Scheme Actuary for the purpose of converting the amount of the lump sum into an annual pension;
- (b) paid to the person who would otherwise be entitled to receive the lump sum in accordance with regulation F5; and
- (c) paid to that person from the day after the member’s death until the fifth anniversary of the day the member’s pension under the scheme became payable.

(9) If, in accordance with regulation F5, a member has given notice that more than one person is to receive a share of the lump sum, each such person shall receive the same percentage of the annual pension as was specified for that person in the member’s notice.

(10) If, in accordance with regulation F5, the annual pension is to be paid to the member’s personal representatives they may, as part of the distribution of the member’s estate, give irrevocable notice to the Secretary of State—

(a) specifying—

- (i) one or more individuals, or
- (ii) one incorporated or unincorporated body,

to whom the benefit of the pension under this regulation from the date of receipt of the notice by the Secretary of State is to be assigned, and

(b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,  
and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (11) applies.

(11) This paragraph applies if—

- (a) the person specified in the notice has died before payment can be made,
- (b) payment to the person or body specified in the notice is not, in the opinion of the Secretary of State, reasonably practicable, or
- (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation T6(1A) and the Secretary of State has directed, as a consequence of that conviction, that the person's right to a payment in respect of the member's death is forfeited.

(12) The prohibition on assignment of benefits in regulation T3 (benefits not assignable) shall not apply to an assignment by personal representatives under this regulation.”.

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

9.—(1) Regulation H5 (member dies with preserved pension) is amended as follows.

(2) In paragraph (2), for “H3(2)” substitute “H3(2A)”.

(3) In paragraphs (4) and (5), omit “or (3)”.

#### **Amendment of regulation L1**

10. In regulation L1(14) (preserved pension), insert (at the appropriate place in the alphabetical order)—

““NHS employment” does not include employment with an employing authority in respect of which the member is eligible to join the 2008 scheme;”.

#### **Amendment of regulation L2**

11. After regulation L2(2) (refund of contributions), insert—

“(2A) An application in writing referred to in paragraph (2) may be—

- (a) made or given by means of an electronic communication that is approved by the Secretary of State for that purpose;
- (b) given to the Secretary of State by a person other than the member.”.

#### **Amendment of regulation M3**

12.—(1) Regulation M3 (amount of member's cash equivalent) is amended as follows.

(2) In paragraph (1), omit the words “, calculated and verified as required by Chapter IV of Part IV of the 1993 Act”.

(3) After paragraph (1), insert—

“(1A) The Secretary of State shall—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and

- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(6).’.

### Insertion of new regulation M7

13. After regulation M6 (special terms for transfer out (bulk transfers etc)) insert—

#### “Member’s right to transfer a preserved pension to the 2008 Scheme

**M7.**—(1) If a member meets the conditions referred to in paragraph (3), and subject to the following provisions of this regulation, a member may require the Secretary of State to use the cash equivalent of the member’s rights under the scheme referred to in these Regulations to acquire rights in the 2008 scheme.

(2) A member’s right to require the Secretary of State to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.

(3) The conditions referred to in paragraph (1) are that the member—

- (a) is entitled to a deferred benefit under regulation L1,
- (b) may not join the scheme in respect of any further NHS employment by virtue of regulation B2(1)(k), and
- (c) becomes an active member of the 2008 scheme before attaining the age of 60.

(4) The Secretary of State shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member’s benefits accrued in accordance with these Regulations at the guarantee date (“a statement of entitlement”).

(5) In this regulation “the guarantee date” means any date that—

- (a) falls within the required period,
- (b) is chosen by the Secretary of State,
- (c) is specified in the statement of entitlement, and
- (d) is within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(6) In counting the period of 10 days referred to in paragraph (5)(d), Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(7) In paragraph (5), “the required period” means—

- (a) the period of three months beginning with the date that the Secretary of State receives notification from the member’s employing authority that the member has joined the 2008 scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Secretary of State, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(8) Subject to paragraphs (9) to (11), the member’s guaranteed cash equivalent shall be equal to the capitalised value of all of the member’s rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971.

(9) The Secretary of State shall—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member’s guaranteed cash equivalent, and

- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996.

(10) Except in the case of a transfer payment accepted under regulation N3A (transfers in respect of members who were mis-sold pensions and who elect to join or re-join the scheme), a member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation N1(4) (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to the scheme.

(11) Any part of the cash equivalent that relates to service before 29th January 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(12) A member who has received a statement of entitlement in accordance with paragraph (4) may apply to the Secretary of State for the cash equivalent of the member's rights under the scheme to be used to acquire rights under the 2008 scheme.

(13) An application under this regulation must be made in respect of each and every portion of the cash equivalent and shall be—

- (a) made in writing on the form provided for this purpose by the Secretary of State;
- (b) made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(14) On the making of such an application—

- (a) a member becomes entitled to be credited with a period of pensionable service or an equivalent increase to the member's pensionable earnings in the 2008 scheme in respect of the cash equivalent value of the member's benefits under the scheme calculated in accordance with whichever of regulations 2.F.17 or 3.F.17 of the 2008 scheme apply to the member, and
- (b) the member's rights under the scheme are extinguished on the day that the member is credited with a period of pensionable service or pensionable earnings in accordance with regulations 2.F.17 or 3.F.17 (as the case may be) of the 2008 scheme.”.

## **Amendment of regulation P2**

**14.** For paragraphs (1) and (2) of regulation P2 (other leave of absence) substitute—

“(1) If, on or after 1st April 2008, a member is on a leave of absence for reasons other than those referred to in regulation P1 the maximum period of such leave that will count as pensionable employment under this paragraph is—

- (a) where the member, for a continuous period of six months commencing with the member's first day of leave of absence, pays to the scheme contributions due from the member in accordance with regulation D1, six months;
- (b) where the member, for a continuous period of less than six months commencing with the member's first day of leave of absence, pays to the scheme contributions due from the member in accordance with regulation D1, the period in respect of which those contributions were paid.

(2) If, having paid contributions for the period referred to in paragraph (1)(a), a member remains on leave of absence for reasons other than those referred to in regulation P1 the maximum period of such leave that will count as pensionable employment under this paragraph is—

- (a) where the member pays to the scheme both contributions due from the member in accordance with regulation D1 and contributions due from the member's employer in accordance with regulation D2 for a continuous period of 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), 18 months;
- (b) where the member pays to the scheme both contributions due from the member in accordance with regulation D1 and contributions due from the member's employer in accordance with regulation D2 for a continuous period of less than 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), the period in respect of which those contributions were paid.”.

### **Amendment of regulation S2**

**15.** For paragraph (2) of regulation S2 (reduction of pension on return to NHS employment), substitute—

- “(2) A member to whom this regulation applies must—
- (a) inform the member's employer, and any other person that the Secretary of State may specify, that the member's pension under the scheme has become payable, and
  - (b) if requested to do so, provide any information (or authorise any other person to provide information) about the member's pay from NHS employment to the Secretary of State or to any other person the Secretary of State may specify.”.

### **Amendment of regulation S4**

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

(2) In paragraph (1A)—

(i) for “This regulation”, substitute “Subject to the modifications set out in paragraph (1B), this regulation”;

(ii) in sub-paragraph (b)(iii), after “members)” insert “on or before 1st April 2008”.

(3) After paragraph (1A), insert—

“(1B) The modifications referred to in paragraph (1A) are—

- (a) in paragraph (3A), for “on the date of the member's death” substitute “on the member's last day of pensionable employment”;
- (b) in paragraph (7), for “pensionable pay when he died” substitute “final year's pensionable pay”;
- (c) in paragraph (8), for “the 6 months immediately following the member's death” substitute “the 3 months immediately following the member's death or the 6 months immediately following the member's death if he leaves a dependent child”;
- (d) in paragraph (11), for “the 6 month period” substitute “the 3 month or, as the case may be, the 6 month period”;
- (e) in paragraph (12)—
  - (i) for “rate of pensionable pay when he died” substitute “final year's pensionable pay”, and
  - (ii) for “at that time” substitute “when he died”.



(1C) Subject to the modifications set out in paragraph (1D), 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 the member dies, the member is—
  - (i) under the age of 75,
  - (ii) in NHS employment,
  - (iii) no longer required to pay contributions pursuant to regulation D1(3) or (4) (contributions by members) on, or after, 2nd April 2008, and
  - (iv) except where regulation R4(6) applies, not in receipt of a pension under any of regulations E1 to E5 in respect of the member's later service.

(1D) The modifications referred to in paragraph (1C) are—

- (a) in paragraph (3A), for “on the date of the member's death” substitute “on the member's last day of pensionable employment”;
- (b) in paragraph (7), for “pensionable pay when he died” substitute “final year's pensionable pay”;
- (c) in paragraph (12)—
  - (i) for “rate of pensionable pay when he died” substitute “final year's pensionable pay”, and
  - (ii) for “at that time” substitute “when he died”.

#### **Amendment of regulation S4A**

**17.** In regulation S4A (benefits on death in pensionable employment after pension under regulation E2A becomes payable) after paragraph (1), insert—

“(1A) Subject to the modifications set out in paragraph (1B), this regulation shall also apply to a member in respect of whom a pension is payable under regulation E2A who—

- (a) returns to pensionable employment after that pension becomes payable, and
- (b) on the day the member dies, the member is—
  - (i) under the age of 75,
  - (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 the member's later service.

(1B) The modifications referred to in paragraph (1A) are—

- (a) in paragraph (6), for “on the date of the member's death” substitute “on the member's last day of pensionable employment”;
- (b) in paragraph (10), for “rate of pensionable pay when the member died” substitute “final year's pensionable pay”;
- (c) in paragraph (15)(a), for “rate of pensionable pay when the member died” substitute “final year's pensionable pay”;
- (d) in paragraph (15)(b), for “at that time” substitute “when he died”.

### **Amendment of regulation T1**

**18.** For regulation T1 (claims for benefits), substitute—

#### **“Claims for benefits**

**T1.**—(1) A person claiming to be entitled to benefits under these Regulations (“the claimant”) shall make a claim in writing to the Secretary of State in such form as the Secretary of State may from time to time require.

(2) Pursuant to such a claim, the claimant and the member’s employing authority (including any previous employing authority of the member) shall provide such—

- (a) evidence of entitlement,
- (b) authority or permission as may be necessary for the release by third parties of information in their possession relating to the member or, where relevant, the claimant, and
- (c) other information the Secretary of State considers is relevant to the claim,

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

(3) A claim referred to in paragraph (1) may be given to the Secretary of State by a person other than the claimant.

(4) The Secretary of State may accept any claim for benefits to which this regulation applies, and any evidence, authority or permission given in connection with that claim, if it is made or given by means of an electronic communication that is approved by the Secretary of State for that purpose.”.

### **Amendment of regulation T6**

**19.** In regulation T6(1A) (loss of rights to benefits)—

- (a) in sub-paragraph (a), after “widower” insert “, surviving nominated partner”;
- (b) in sub-paragraph (c)—
  - (i) after “notice” insert “or nomination”;
  - (ii) for “F5(3A)” substitute “F5”.

### **Amendment of regulation T8**

**20.** In regulation T8(4) (interest on late payment of benefits), in the definition of “due date”—

- (a) after sub-paragraph (a) insert—
  - “(aa) in the case of an amount in respect of a pension under regulation F2 that is payable to—
    - (i) the member’s personal representatives, the date on which probate or letters of administration were produced to the Secretary of State,
    - (ii) any person or body to whom the pension has been assigned by the member’s personal representatives, the date on which the notice under regulation F2(10) was received by the Secretary of State, and
    - (iii) any person or body other than those referred to in (i) and (ii), the day immediately following the day of the member’s death;”;
- (b) in sub-paragraph (b), after “member’s death” insert “other than a pension payable under regulation F2”.

## **Amendment of regulation U1A**

**21.**—(1) Regulation U1A (determinations by medical practitioners) is amended as follows.

(2) Before “The Secretary of State may”, insert “(1)”.

(3) In sub-paragraph (b), for “or regulation G11(2)” substitute “, regulation G11(2) or regulation G15(2)(a)”.

(4) After sub-paragraph (f), insert—

“(g) expected to live for less than one year for the purposes of the lump sum rule referred to in regulations E1(4)(b) and E2A(7)(b).”.

(5) After the newly numbered paragraph (1), insert—

“(2) In relation to the decisions referred to in paragraph (1), the Secretary of State may require any person referred to in that paragraph to submit to a medical examination by a registered medical practitioner selected by the Secretary of State, and in that event, the Secretary of State shall—

(a) also offer the person an opportunity of submitting a report from that person’s own medical adviser as a result of an examination by such an adviser, and

(b) take that report into consideration together with the report of the medical practitioner selected by the Secretary of State.”.

## **Amendment of Schedule 2**

**22.**—(1) Schedule 2 (medical and dental practitioners) is amended as follows.

(2) In paragraph 1 (additional definitions used in this Schedule), omit the definitions of “Local Health Group” and “Primary Care Group”.

(3) In paragraph 2(1) (application of regulations with modifications), after “Primary Care Trust” (twice) insert “or Local Health Board”.

(4) In paragraph 3 (meaning of pensionable earnings)—

(a) in sub-paragraph (2)(a)(vii), after “OOH provider” insert “or other employing authority providing OOH services”;

(b) in sub-paragraph (2)(a)(viii), for “ophthalmic” substitute “ophthalmic”;

(c) for sub-paragraph (2B)(a)(ii) substitute—

“(ii) adoption leave, maternity leave, parental leave or paternity leave payments;”.

(5) In sub-paragraphs (4), (5) and (6) of paragraph 5 (elections relating to calculation of pensionable earnings in medical partnerships), after “Primary Care Trust” insert “or Local Health Board”.

(6) In sub-paragraph (3) of paragraph 8 (limit on pensionable earnings – dental practitioners), after “Primary Care Trust” insert “or Local Health Board”.

(7) In paragraph 9 (officer service treated as practitioner service)—

(a) for sub-paragraph (1), substitute—

“(1) Subject to sub-paragraph (3), if a member does not have more than 10 years’ officer service on first becoming a type 1 practitioner, the member’s officer service before first becoming a type 1 practitioner will be treated as practitioner service.”;

(b) in sub-paragraph (3)—

(i) omit paragraph (aa);

(ii) in paragraph (b), omit “principal practitioner or”;

- (c) in sub-paragraph (5), omit “(early retirement pension on grounds of ill-health)”;
- (d) in sub-paragraph (5A)—
  - (i) in paragraph (a), omit “or a principal practitioner; or”;
  - (ii) omit paragraph (b);
- (e) omit sub-paragraph (5AA);
- (f) in sub-paragraph (8), omit the words from “(other than a type 1 dental practitioner” to “a Primary Care Trust”;
- (g) omit sub-paragraph (12).
- (8) In paragraph 10 (contributions to the scheme) —
  - (a) in sub-paragraphs (2L) and (2U), for “determined in accordance with paragraph (2J)” substitute “as that which applied to the earlier employment”;
  - (b) in sub-paragraph (3)(a), for “70” substitute “75”;
  - (c) in sub-paragraph (9), for “Where an” substitute “Where a”.
- (9) In sub-paragraph (2) of paragraph 23 (accounts and actuarial reports)—
  - (a) for “provide the host”, substitute “provide each relevant host”;
  - (b) for “Inland Revenue” (twice), substitute “Her Majesty’s Revenue and Customs”.

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

**23.** In Schedule 2A (pension sharing on divorce or nullity of marriage or on the dissolution or nullity of a civil partnership)—

- (a) after sub-paragraph (4) of paragraph 7 (pension credit member dies after pension credit benefit becomes payable) insert—

“(5) Where a pension credit member referred to in paragraph (1) has attained the age of 75 at the date of the pension credit member’s death—

- (a) the lump sum referred to in that paragraph shall cease to be payable, and
  - (b) shall instead be converted into an annual pension to be determined and paid in accordance with paragraph (6).
- (6) The pension referred to in paragraph (5) shall be—
- (a) determined in accordance with guidance and tables provided by the Scheme Actuary for the purpose of converting the amount of the lump sum into an annual pension;
  - (b) paid to the person who would otherwise be entitled to receive the lump sum in accordance with regulation F5; and
  - (c) paid to that person from the day after the pension credit member’s death until the fifth anniversary of the day the pension credit member’s pension under the scheme became payable.

(7) If, in accordance with regulation F5, a pension credit member has given notice that more than one person is to receive a share of the lump sum, each such person shall receive the same percentage of the annual pension as was specified for that person in the pension credit member’s notice.

(8) If, in accordance with regulation F5, the annual pension is to be paid to the pension credit member’s personal representatives they may, as part of the distribution of the pension credit member’s estate, give irrevocable notice to the Secretary of State—

- (a) specifying—

- (i) one or more individuals, or
    - (ii) one incorporated or unincorporated body,to whom the benefit of the pension under this regulation from the date of receipt of the notice by the Secretary of State is to be assigned, and
  - (b) where two or more individuals are specified, specifying the percentage of the pension payable to each of them,
- and the pension (or, as the case may be, the percentage of it specified in respect of the person) may be paid to the person or body, unless paragraph (9) applies.
- (9) This paragraph applies if—
- (a) the person specified in the notice has died before payment can be made,
  - (b) payment to the person or body specified in the notice is not, in the opinion of the Secretary of State, reasonably practicable, or
  - (c) the person to whom the pension (or a specified percentage of the pension) would otherwise be payable has been convicted of an offence specified in regulation T6(1A) and the Secretary of State has directed, as a consequence of that conviction, that the person's right to a payment in respect of the pension credit member's death is forfeited.
- (10) The prohibition on assignment of benefits in regulation T3 (benefits not assignable) shall not apply to an assignment by personal representatives under this regulation.”;
- (b) after sub-paragraph (b)(ii) of paragraph 14 (interest on late payment of benefits), insert—
- “(ia) in sub-paragraph (aa)—
- (aa) the reference to a pension under regulation F2 shall be a reference to a pension under sub-paragraph (5) of paragraph 7 of Schedule 2A;
  - (bb) the reference to the member's personal representatives shall be a reference to the personal representatives of the person entitled to the pension credit or the pension credit member, and
  - (cc) the reference to the member's death shall be a reference to the death of the person entitled to the pension credit or the pension credit member.”.