

2011 No. 591

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service Pension Scheme (Amendment)
Regulations 2011**

Made - - - - *28th February 2011*

Laid before Parliament *7th March 2011*

Coming into force - - *1st April 2011*

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

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.

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme (Amendment) Regulations 2011.

(2) These Regulations come into force on 1st April 2011.

Amendment of the National Health Service Pension Scheme Regulations 1995

2.—(1) The National Health Service Pension Scheme Regulations 1995(b) are amended as follows.

(2) In regulation Q17 (revaluation of increases bought under options: members' pensions)—

(a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) or (5A) applies”;

(b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31 March 2011, the calculation”;

(c) after paragraph (5), add—

(a) 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). 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) 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 2446 and 2010/492 and 1634. The Regulations were also modified by S.I. 1996/971.

“(5A) If the member exercised the option on or after 1 April 2011, the calculation referred to in paragraph (3) is as follows—

- Step 1 – Calculate the basic amount of the increase in accordance with regulations Q14 to Q16, to find the Step 1 amount.
- Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
- Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971^(a) on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).;”

- (d) in paragraph (6), after “that Act)” insert “and “the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of that Act”.

Amendment of the National Health Service Pension Scheme Regulations 2008

3.—(1) The National Health Service Pension Scheme Regulations 2008^(b) are amended as follows.

(2) In regulation 2.C.17 (revaluation of increases bought under options: members’ pensions)—

- (a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) or (5A) applies”;
- (b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31 March 2011, the calculation”;
- (c) after paragraph (5), add—

“(5A) If the member exercised the option on or after 1 April 2011, the calculation referred to in paragraph (3) is as follows—

- Step 1 – Calculate the basic amount of the increase in accordance with regulations 2.C.14 to 2.C.16, to find the Step 1 amount.
- Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
- Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

^(a) 1971 c.56.

^(b) S.I. 2008/653 as amended by S.I. 2008/2263, 2009/381, 1298 and 2446 and 2010/492 and 1634.

- Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).;”
- (d) in paragraph (6), after “that Act)” insert “and “the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of that Act”.
- (3) In regulation 3.C.15 (revaluation of increases bought under options: members’ pensions)—
- (a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) or (5A) applies”;
- (b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31 March 2011, the calculation”;
- (c) after paragraph (5), add—
- “(5A) If the member exercised the option on or after 1 April 2011, the calculation referred to in paragraph (3) is as follows—
- Step 1 – Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.
- Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
- Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).;”
- (d) in paragraph (6), after “that Act)” insert “and “the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of that Act”.

Signed by authority of the Secretary of State for Health.

22nd February 2011

Paul Burstow
Minister of State,
Department of Health

We consent

28th February 2011

Michael Fabricant
Brooks Newmark
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 1995 Regulations”) and the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) (“the 2008 Regulations”).

Regulation 2 amends regulation Q17 (revaluation of increases bought under options: members’ pensions) of the 1995 Regulations. The amendment draws a distinction between the pre-payment revaluation of increases to a member’s pension where the option to purchase such an increase has been exercised on or before 31 March 2011 and where the option was exercised on or after 1 April 2011. In the case of the former, the calculation of the increase relies on the “retail prices index”. In the case of the latter, the calculation of that increase relies on the “prices index” which is defined in such a way as to link to the Pensions (Increase) Act 1971 (c.56). Revaluation of all increases to a member’s pension in payment is linked to the Pensions (Increase) Act 1971.

Regulation 3 amends regulations 2.C.17 and 3.C.15 (which deal with the revaluation of increases bought under options: members’ pensions for officers and practitioners respectively) of the 2008 Regulations in the same way as regulation 2 amends regulation Q17 of the 1995 Regulations.

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