

2012 No. 610

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service Pension Scheme and Injury
Benefits (Amendment) Regulations 2012**

Made - - - - *28th February 2012*

Laid before Parliament *5th March 2012*

Coming into force - - *1st April 2012*

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), 12(1), (2) and (4) 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.

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme and Injury Benefits (Amendment) Regulations 2012.

(2) These Regulations shall come into force on 1st April 2012 and, save as provided in paragraphs (3), (4) and (5), have effect from that date.

(3) The following regulations shall have effect from 6th April 2011—

(a) regulation 7(c) in so far as it inserts new paragraphs (15) and (16) of regulation T2A of the National Health Service Pension Scheme Regulations 1995(b) (deduction of tax: further provisions);

(b) regulation 10(b).

(4) The following regulations shall have effect from 11th August 2011—

(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). Section 12(2) was amended by section 10(1) of the Pensions (Miscellaneous Provisions) Act 1990. 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. The relevant amending instruments are footnoted below.

- (a) regulation 7(c) in so far as it inserts new paragraphs (12) to (14) of regulation T2A of the National Health Service Pension Scheme Regulations 1995;
 - (b) regulations 16, 20 and 21.
- (5) The following regulations shall have effect from 6th April 2012—
- (a) regulation 7(a) and (b);
 - (b) regulation 10(a).

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

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

3. In regulation A2 (interpretation) after “the 2008 Section” insert—

““the 2011 Act” means the Finance Act 2011(a);”.

4. In regulation D1 (contributions by members)—

(a) for paragraph (1A)(b) substitute—

“(1A) A member whose pensionable pay falls into a pay band specified in column 1 of the table below must contribute the percentage of the member’s pensionable pay specified in column 2 of that table in respect of that amount.

Scheme Year 2012-2013

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

(b) in paragraph (2)(c), for “the relevant table” substitute “the table in paragraph (1A)”;

(c) in paragraph (2B)(d) omit sub-paragraph (c); and

(d) in paragraphs (2E) to (2R)(e), and (2V)(f), for “the relevant table in paragraph (2B)” substitute “the table in paragraph (1A)”.

5. In regulation R8 (former members of health service schemes)(g), for paragraph (1) substitute—

“(1) For the purposes of these Regulations, “health service scheme” means—

(a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972 and for the time being in force in relation to Scotland,

(a) 2011 c.11.
 (b) Paragraph (1A) was substituted by S.I. 2009/381, regulation 4 and by S.I. 2010/1634, regulations 2, 3(1) and (2).
 (c) Paragraph (2) was substituted by S.I. 2009/381, regulation 4 and by S.I. 2010/1634, regulations 2, 3(1) and (3).
 (d) Paragraph (2B) was substituted by S.I. 2009/381, regulation 4 and amended by S.I. 2010/1634, regulations 2, 3(1) and (5).
 (e) Paragraphs (2E) to (2R) were substituted by S.I. 2009/381, regulation 4 and amended by S.I. 2010/1634, regulations 2, 3(1) and (6).
 (f) Paragraph (2V) was inserted by S.I. 2009/381, regulation 4 and amended by S.I. 2010/1634, regulations 2, 3(1) and (6).
 (g) Paragraph (1) was amended by S.I. 1998/666, regulation 9(b).

- (b) a superannuation scheme provided under regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972^(a),
- (c) in the case of a member whose pensionable employment commenced on or before 1st April 2012, a superannuation scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), or
- (d) any other occupational pension scheme approved for this purpose by the Secretary of State.”.

6. In regulation S1 (suspension of pension on return to NHS employment) for paragraph (5)(a)(b) substitute—

“(a) employment in respect of which regulations made under section 10 of the Superannuation Act 1972, and having effect in Scotland, apply; employment to which regulations made under Article 12 of the Superannuation (Northern Ireland) Order 1972 apply and employment commencing on or before 31st March 2012 to which a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald) applies; and”.

7. In regulation T2A (deduction of tax: further provisions)(c)—

- (a) in paragraph (7) after “entitlement to” insert “transitional protection,”;
- (b) after paragraph (8) insert—

“(8A) If a person claiming a benefit under these Regulations intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance with paragraph 14 of Schedule 18 to the 2011 Act, that person shall give to the scheme administrator—

- (a) the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011^(d) in respect of that entitlement; and
- (b) the information referred to in paragraph (7).”;

(c) for paragraph (12) substitute—

“(12) This paragraph applies to a member who—

- (a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act, and
- (b) meets the conditions specified in paragraph (1) of section 237B of that Act.

(13) A member to whom paragraph (12) applies may give notice in writing to the scheme administrator specifying that the scheme administrator and the member are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that member in accordance with section 237B of that Act.

(14) Unless the scheme administrator’s liability for an annual allowance charge referred to in paragraph (13) is discharged in accordance with section 237D of the 2004 Act—

- (a) that annual allowance charge will be paid by the scheme administrator on behalf of the member, and
- (b) that member’s present or future benefits in respect of which that charge arises shall be adjusted in accordance with section 237E of the 2004 Act and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose.

(15) Paragraph (16) applies to members who are practitioners or non-GP providers.

(a) S.I. 1972/1073 (N.I.10).

(b) Paragraph (5) was amended by S.I. 1998/666, regulation 10 and S.I. 2007/3280, regulation 2(1) and (17).

(c) Regulation T2A was inserted by S.I. 2006/600, regulation 18 and amended by S.I. 2007/3280, regulation 2(1) and (20), S.I. 2008/654, regulation 62 (1), (2) and (3) and S.I. 2011/2586, regulations 2 and 9(a) and (b).

(d) S.I. 2011/1752.

(16) The members referred to in paragraph (15) shall provide the information required by regulation 15A of the Registered Pension Schemes (Provision of Information) Regulations 2006(a) in respect of their benefits under the scheme in a manner prescribed from time to time by the Secretary of State.

(17) “Enhanced lifetime allowance” and “enhanced protection” shall be construed in accordance with the 2004 Act.”.

8. In paragraph 10 of Schedule 2 (contributions to this section of the scheme)(b) for sub-paragraph (1A) substitute—

“(1A) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2010-2011 and the 2011-2012 scheme years, table 1;
- (b) in respect of the 2012-2013 scheme year, table 2.

Table 1
Scheme Years 2010-2011 and 2011-2012

<i>Column 1</i> <i>Pensionable earnings band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Table 2
Scheme Year 2012-2013

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

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

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

10. In regulation 1.B.3 (provision of information relevant for tax purposes)(d)—

(a) after paragraph (3) insert—

“(3A) If a person applying for a benefit under this Section of the Scheme intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance

(a) S.I. 2006/567.

(b) Paragraph 10 was substituted by S.I. 2005/661, regulation 11(1) and (8) and amended by S.I. 2009/2446, regulations 2 and 10 and Schedule 1, Part 1, paragraph 1(b). Sub-paragraph (1A) was inserted by S.I. 2010/1634, regulations 2 and 7(1) and (2).

(c) S.I. 2008/653 as amended by S.I. 2008/2263, 2009/381, 1298 and 2446, 2010/234, 492 and 1634, 2011/591 and 2586.

(d) Regulation 1.B.3 was amended by S.I. 2009/2446, regulations 11 and 12.

with paragraph 14 of Schedule 18 to the 2011 Act, that person must give to the Scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 in respect of that entitlement.”;

(b) after paragraph (5) insert—

“(6) Paragraph (7) applies to members who are practitioners or non-GP providers.

(7) The members referred to in paragraph (6) shall provide the information required by regulation 15A of the Registered Pension Schemes (Provision of Information) Regulations 2006 in respect of their benefits under the Scheme in a manner prescribed from time to time by the Secretary of State.”.

11. In regulation 2.A.1 (interpretation: general)—

(a) in paragraph (1), after “2008 Section Optant” insert—

““the 2011 Act” means the Finance Act 2011(a);”;

(b) in paragraph (2), in the definition of “corresponding health service scheme”(b) for subparagraph (c) substitute—

“(c) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered NHS employment on or before 1st April 2012, and”.

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

(a) for paragraph (2) substitute—

“(2) A member’s contribution rate is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

Scheme Year 2012-2013

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

(b) in paragraph (3) for “the relevant table” substitute “the table in paragraph (2)”;

(c) omit paragraph (5).

13. In regulation 2.C.3 (determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers)(d) in paragraphs (4) to (17) and in paragraph (21) for “the relevant table in paragraph (5)” substitute “the table in paragraph (2)”.

14. In regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers)(e) for paragraph (15) substitute—

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

(a) 2011 c.11.

(b) The definition of “corresponding health service scheme” was substituted by S.I. 2008/2263, regulation 25(1) and (2)(c).

(c) Regulation 2.C.2 was substituted by S.I. 2010/1634, regulations 8 and 11.

(d) Regulation 2.C.3 was substituted by S.I. 2009/381, regulation 21 and amended by S.I. 2010/1634, regulations 8, 12(1) and (2). Paragraphs (4) to (17) and (21) were amended by S.I. 2010/1634, regulations 8 and 12(1) and (3).

(e) Regulation 2.C.4 was substituted by S.I. 2010/1634, regulations 8 and 13.

- (a) in respect of the 2010-2011 and 2011-2012 scheme years, table 1;
- (b) in respect of the 2012-2013 scheme year, table 2.

Table 1

Scheme Years 2010-2011 and 2011-2012

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Table 2

Scheme Year 2012-2013

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

15. In regulation 2.H.1 (application of Chapter 2.H)(a), in paragraph (2)(d) after “employment” insert “commencing on or before 31st March 2012”.

16. In regulation 2.J.8 (deduction of tax)(b) after paragraph (8) add—

“(9) Without prejudice to the generality of paragraph (1), a person who—

- (a) is liable for an annual allowance charge in accordance with section 237A of the 2004 Act, and
- (b) meets the conditions specified in paragraph (1) of section 237B of that Act,

may give notice in writing to the Scheme administrator specifying that the Scheme administrator and that person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(10) Unless the Scheme administrator’s liability for an annual allowance charge referred to in paragraph (9) is discharged in accordance with section 237D of the 2004 Act—

- (a) that annual allowance charge will be paid by the Scheme administrator on behalf of the member, and
- (b) that person’s present or future benefits in respect of which that charge arises shall be adjusted in accordance with section 237E of the 2004 Act and shall be calculated by reference to advice provided by the Scheme actuary for that purpose.

17. In paragraph (1) of regulation 3.A.1 (interpretation of Part 3: general)—

- (a) after “2008 Section Optant” insert—

(a) Regulation 2.H.1 was amended by S.I. 2009/2446, regulations 11 and 103 and Schedule 2, Part 1, paragraph 1(a).
 (b) Regulation 2.J.8 was amended by S.I. 2009/2446, regulations 11 and 103 and Schedule 2, Part 1, paragraph 1(a) and S.I. 2011/2586, regulations 14 and 22.

““the 2011 Act” means the Finance Act 2011;”;

- (b) in the definition of “corresponding health service scheme”(a) for sub-paragraph (c) substitute—

“(c) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered NHS employment on or before 1st April 2012, and”.

18. In regulation 3.C.2 (members’ contribution rate)(b) for paragraph (17)(c), substitute—

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

- (a) in respect of the 2010-2011 and 2011-2012 scheme years, table 1;
(b) in respect of the 2012-2013 scheme year, table 2.

Table 1

Scheme Years 2010-2011 and 2011-2012

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
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£110,274 to any higher amount	8.5%

Table 2

Scheme Year 2012-2013

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

19. In regulation 3.H.1 (application of Chapter 3.H)(d), in paragraph (3)(d) after “employment” insert “commencing on or before 31st March 2012”.

20. In regulation 3.J.8 (deduction of tax)(e) after paragraph (8) add—

“(9) Without prejudice to the generality of paragraph (1), a person who—

- (a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act, and

- (b) meets the conditions specified in paragraph (1) of section 237B of that Act,

may give notice in writing to the Scheme administrator specifying that the Scheme administrator and that person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(a) The definition of “corresponding health service scheme” was substituted by S.I. 2008/2263, regulation 54(1) and (2)(c).
(b) Regulation 3.C.2 was substituted by S.I. 2009/381, regulation 55.
(c) Paragraph (17) was inserted by S.I. 2010/1634, regulation 8 and 16(1) and (4).
(d) Regulation 3.H.1 was amended by S.I. 2009/2446, regulations 11 and 103 and Schedule 2, Part 1, paragraph 1(a).
(e) Regulation 3.J.8 was amended by S.I. 2009/2446, regulations 11 and 103 and Schedule 2, Part 1, paragraph 1(a) and by S.I. 2011/2586, regulations 14 and 33.

(10) Unless the Scheme administrator’s liability for an annual allowance charge referred to in paragraph (9) is discharged in accordance with section 237D of the 2004 Act—

- (a) that annual allowance charge will be paid by the Scheme administrator on behalf of the member, and
- (b) that person’s present or future benefits in respect of which that charge arises shall be adjusted in accordance with section 237E of the 2004 Act and shall be calculated by reference to advice provided by the Scheme actuary for that purpose.”.

PART 4

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

Amendment of regulation 4

21. In paragraph (6) of regulation 4 (scale of benefits) of the National Health Service (Injury Benefits) Regulations 1995(a)—

- (a) at the end of sub-paragraph (a)(ii) omit “and”; and
- (b) after sub-paragraph (a)(iii) add—
 - “and
 - (iv) reduction in the amount of that pension under paragraph (14)(b) of regulation T2A of the 1995 Regulations (deduction of tax: further provisions) or paragraph (10)(b) of regulations 2.J.8 or 3.J.8 of the 2008 Regulations (deduction of tax).”.

Signed by authority of the Secretary of State for Health.

24th February 2012

Simon Burns
Minister of State,
Department of Health

We consent

28th February 2012

Michael Fabricant
Angela Watkinson
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”), the National Health Service Pension Scheme Regulations 2008 (S.I.2008/653) (“the 2008 Regulations”) and the National Health Service (Injury Benefits) Regulations 1995 (S.I.1995/866) (“the Injury Benefits Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from a date before the date of commencement. Section 12(1) of the Superannuation Act 1972 (c.11) provides authority for the regulations specified in regulation 1(3) and (4) to take effect from a date earlier than the making of these Regulations.

(a) S.I. 1996/866. The relevant amending instruments are S.I. 1998/667, regulation 4, 2008/2263, regulation 89 and 2009/381, regulation 87.

Amendments consequent on the Finance Act 2011

Regulations 3, 7, 10, 11(a), 16, 17(a) and 20 amend provisions of the 1995 Regulations and the 2008 Regulations as a result of changes made by the Finance Act 2011(c.11) in relation to—

- (i) an individual's annual allowance in respect of year on year increases to pension savings before those savings incur a tax charge ("an annual allowance charge"),
- (ii) a new requirement that, in certain circumstances, a scheme is to pay an annual allowance charge and reduce an individual's benefits accordingly, and
- (iii) an individual's lifetime allowance in respect of total pension savings before those savings incur a tax charge ("a lifetime allowance charge"), and the process by which an individual can protect that allowance at the current value.

Regulation 21 amends the Injury Benefits Regulations to provide that where a person authorises a deduction from their NHS Pension Scheme benefits in respect of an annual allowance charge, the amount of that deduction shall be disregarded for the purposes of regulation 4(6)(a) of the Injury Benefits Regulations.

Changes to employee contribution rates

Regulations 4, 8, 12, 13, 14, and 18 amend various provisions of the 1995 Regulations and the 2008 Regulations to provide for changes to pensionable pay bands or earnings bands and employee contribution percentage rates for the 2012 Scheme Year which is the period of one year beginning on the 1st April 2012 and ending on 31st March 2013.

Amendments consequent on the introduction of the Isle of Man Unified Public Service Pension Scheme on 1st April 2012

Regulations 5, 11(b) and 17(b) amend various provisions of the 1995 Regulations and the 2008 Regulations so that the dedicated pension transfer arrangements for staff moving from the NHS in the Isle of Man to the NHS in England and Wales are discontinued in respect of staff joining on or after 2nd April 2012. Provisions that abate and suspend pensions on re-employment in the Isle of Man after retirement are also discontinued by amendments at regulations 6, 15 and 19.

Although this instrument will not impose or reduce costs on business or the third sector nor will it result in costs to the public sector in excess of £5 million, an impact assessment is provided for the provisions concerning scheme contribution rates in view of the potential public interest. This is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk and it is also available from http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_131745.pdf.

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STATUTORY INSTRUMENTS

2012 No. 610

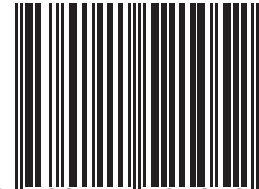
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