
STATUTORY INSTRUMENTS

2010 No. 1634

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service Pension
Scheme (Amendment) Regulations 2010**

<i>Made</i>	- - - -	<i>16th June 2010</i>
<i>Laid before Parliament</i>		<i>24th June 2010</i>
<i>Coming into force</i>	- -	<i>23rd July 2010</i>

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(1).

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 (Amendment) Regulations 2010.

(2) These Regulations come into force on 23rd July 2010 and, save as provided in paragraphs (3) and (4), have effect from that date.

(3) The following regulations have effect from 1st November 2009—

(a) regulation 6;

(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. 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) regulation 9.
 (4) Regulation 5 shall have effect from 6th April 2010.

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

Part 2: General

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

Amendment of regulation D1

- 3.—(1) Regulation D1 (contributions by members) is amended as follows.
- (2) For paragraph (1A), substitute—
- “(1A) A member whose pensionable pay falls into a pay band specified in column 1 of the relevant table must contribute the percentage of the member’s pensionable pay specified in column 2 of that table in respect of that amount.”.
- (3) For paragraph (2), substitute—
- “(2) The Secretary of State shall, with the consent of the Treasury, determine the pensionable pay bands and contribution percentage rates specified in the relevant table in respect of each scheme year.”.
- (4) In paragraph (2A), for “making a determination” substitute “determining those pensionable pay bands or contribution percentage rates”.
- (5) After paragraph (2B)(b), add—
- “(c) “the relevant table” means—
- (i) in respect of the 2010-2011 scheme year, table 1 where paragraph (2C) applies and table 2 if paragraph (2Q), (2R) or (2V) applies;
- (ii) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

(2) 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. The Regulations were also modified by S.I. 1996/971.

Table 2

<i>Column 1</i> <i>Pensionable Pay 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%.”

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

Amendment of regulation D2

4. For paragraphs (1) and (2) of regulation D2 (contributions by employing authorities), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable pay of each member in pensionable employment with the authority, at the rate determined by the Secretary of State and specified in paragraph (2) (“the employer’s standard rate”).

(1A) The employer’s standard rate shall include the cost of providing any increases in pensions which are payable by virtue of Part 1 of the Pensions (Increase) Act 1971(3).

(1B) In determining the employer’s standard rate, the Secretary of State must take the advice of the Scheme Actuary and obtain the Treasury’s consent.

(2) The employer’s standard rate is 14 per cent.”.

Amendment of Part K

5.—(1) Part K (contracting-out) is amended as follows.

(2) After paragraph (3)(c) of regulation K1 (contracting-out conditions to be overriding), add—

“(ca) “guaranteed minimum pension age” means age 65 in the case of a man or age 60 in the case of a woman;”.

(3) For “State pension age” substitute “guaranteed minimum pension age”, in—

- (a) paragraphs (2) and (7)(a) of regulation K2 (guaranteed minimum pensions),
- (b) regulation K3 (late retirement),
- (c) paragraph (1) of regulation K4 (early leavers) (three times),
- (d) paragraphs (1), (2) and (3) of regulation K5 (guaranteed minimum pensions transferred to this Section of the scheme).

Amendment of regulation U3

6.—(1) Regulation U3 (accounts and actuarial reports) is amended as follows.

(2) In paragraph (3), for “The Scheme Actuary” substitute “Subject to paragraph (3A), the Scheme Actuary”.

(3) After paragraph (3), add—

“(3A) The actuarial report referred to in paragraph (3) shall be based on actuarial assumptions determined by the Secretary of State following the consent of the Treasury.

(3B) Before determining the assumptions referred to in paragraph (3A) the Secretary of State may consult—

- (a) such representatives of employees and employing authorities as appear to the Secretary of State to be appropriate, and
- (b) the Scheme Actuary.”.

Amendment of Schedule 2

7.—(1) Paragraph 10 (contributions to this Section of the scheme) of Schedule 2 (medical and dental practitioners) is amended as follows.

(2) After sub-paragraph (1), add—

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

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<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%.”

(3) For sub-paragraph (2) to (2B), substitute—

“(2) Subject to sub-paragraph (2A), a member whose pensionable earnings fall into a pensionable earnings band specified in column 1 of the relevant table must contribute the percentage of the member’s pensionable earnings specified in column 2 of that table in respect of that amount.

(2A) The Secretary of State shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

- (2B) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider—
- (a) the advice of the Scheme Actuary, and
 - (b) in accordance with regulation U4 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.”.
- (4) In sub-paragraphs (2H), (2I), (2K) and (2L), for “the table in sub-paragraph (2)” substitute “the relevant table in sub-paragraph (1A)”.
- (5) For sub-paragraph (18), substitute—
- “(18) For the purposes of this paragraph—
 - (a) “D1 contributions” means contributions payable under regulation D1 by a practitioner or, as the case may be, a non-GP provider under this Section of the scheme;
 - (b) “D2(1) contributions” means contributions payable under regulation D2(1) by an employing authority in respect of a practitioner or, as the case may be, a non-GP provider.”.

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

Part 3: General

8. The National Health Service Pension Scheme Regulations 2008(4) are amended in accordance with this Part.

Amendment of regulation 1.B.1

- 9.—(1) Regulation 1.B.1 (actuarial reports and accounts) is amended as follows.
- (2) At the end of paragraph (4), add (as full out words), “This is subject to paragraph (5).”.
- (3) After paragraph (4), add—
- “(5) The actuarial report referred to in paragraph (4) shall be based on actuarial assumptions determined by the Secretary of State following the consent of the Treasury.
 - (6) Before determining the assumptions referred to in paragraph (5) the Secretary of State may consult—
 - (a) such representatives of employees and employing authorities as appear to the Secretary of State to be appropriate, and
 - (b) the Scheme Actuary.”.

Substitution of regulation 2.C.1

10. For regulation 2.C.1 (contributions by members), substitute—

“2.C.1 Contributions by members

- (1) Each active member must make contributions to this Section of the Scheme (“member contributions”) in respect of—

(4) [S.I. 2008/653](#) as amended by [S.I. 2008/2263](#), [2009/381](#), [1298](#) and [2446](#) and [2010/492](#).

- (a) the member’s pensionable pay in accordance with regulation 2.C.2 where the member is not a non-GP provider;
 - (b) the member’s pensionable earnings in accordance with regulation 2.C.4 where the member is a non-GP provider.
- (2) Member contributions must be made—
- (a) until the member completes 45 years’ pensionable service, or
 - (b) where the notice required by regulation 2.A.2(3) has been properly received, until the member ceases officer service.
- (3) In the case of a member who is not a non-GP provider, the member’s employing authority must deduct member contributions from the member’s pensionable pay and pay them to the Secretary of State not later than the 19th day of the month following the month in which the pay was paid to the member.
- (4) In the case of a member who is a non-GP provider, the host Trust or Board must pay to the Secretary of State contributions under this regulation paid to it by the non-GP provider or paid to it by another employing authority not later than the 19th day of the month following the month in which the earnings were paid to the non-GP provider.
- (5) Paragraph (6) applies where a member has failed to pay member contributions or an employing authority has failed to deduct such contributions in accordance with this regulation.
- (6) The Secretary of State may recover any sum that remains due in respect of contributions referred to in paragraph (5) by deduction from any payment by way of benefits to, or in respect of, the member if—
- (a) the member agrees to such a deduction, and
 - (b) the deduction is to the member’s advantage.
- (7) Paragraph (6) is without prejudice to any other method of recovery the Secretary of State may have.
- (8) A member who is absent from service in circumstances within regulation 2.A.4(1) to (3), may make contributions to this Section of the Scheme in respect of the member’s pensionable pay or, as the case may be, pensionable earnings in accordance with that regulation and whichever of regulations 2.C.2 or 2.C.4 applies to that member.
- (9) If, apart from this paragraph, the pay or, as the case may be, earnings for a scheme year in respect of a member’s service would not be a whole number of pounds, that pay or, as the case may be, those earnings must be rounded down to the nearest whole pound.”.

Substitution of regulation 2.C.2

- 11.** For regulation 2.C.2 (members’ contribution rate), substitute—

“Contribution rate for members other than non-GP providers

2.C.2.—(1) Contributions under regulation 2.C.1(1)(a) must be paid at the member’s contribution rate for the scheme year in question.

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

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable pay bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

- (4) Before determining those pensionable pay bands or contribution percentage rates, the Secretary of State must consider—
- (a) the advice of the Scheme Actuary, and
 - (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.
- (5) For the purposes of this regulation “the relevant table” means—
- (a) in respect of the 2010-2011 scheme year, table 1 where paragraph (2) of regulation 2.C.3 applies and table 2 if paragraph (16), (17) or (21) of that regulation applies;
 - (b) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i> <i>Pensionable Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i> <i>Pensionable Pay 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%.”

Amendment of regulation 2.C.3

12.—(1) Regulation 2.C.3 (employees) is amended as follows.

(2) For the heading, substitute “2.C.3 Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers”.

(3) In paragraphs (4) to (17) and (21), for “the table in paragraph (2)” substitute “the relevant table in paragraph (5)”.

(4) In paragraph (26), for “the 2008-2009 scheme year” substitute “the current scheme year”.

Substitution of regulation 2.C.4

13. For regulation 2.C.4 (non-GP providers), substitute—

“Contribution rate and determination of pensionable earnings for non-GP providers

2.C.4.—(1) Member contributions payable by a non-GP provider under regulation 2.C.1(1)(b) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (15) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings fall.

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.

(5) Paragraph (6) applies where, in respect of a scheme year, a non-GP provider—

- (a) has certified their pensionable earnings in accordance with regulation 2.J.14 and forwarded a record of those earnings to the host Trust or Board, or
- (b) was not required to certify their earnings in accordance with that regulation but the host Trust or Board has the figure that represents the non-GP provider’s pensionable earnings for that scheme year.

(6) In the circumstances referred to in paragraph (5), contributions payable for the scheme year in question shall be those specified in column 2 of the relevant table in paragraph (15) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to—

- (a) the certified or final pensionable earnings from all non GP provider sources, and
- (b) any additional pensionable earnings the non-GP provider is treated as having received during a break in service in accordance with regulation 2.A.9.

(7) If paragraph (5) does not apply to a non-GP provider in respect of a scheme year, that non-GP provider shall pay contributions at the rate in column 2 of the relevant table in paragraph (15), on the basis of whichever of the following the host Trust or Board considers the most appropriate in the circumstances—

- (a) an amount of the non-GP provider’s earnings that has been agreed between the host Trust or Board on the one hand and the non-GP provider on the other hand;
- (b) an amount of the non-GP provider’s earnings that corresponds to that non-GP provider’s most recent certified or final pensionable earnings referred to in paragraph (5); or
- (c) an amount of such earnings that corresponds to the host Trust or Board’s estimate of that non-GP provider’s pensionable earnings from all non-GP provider sources for that year.

This is subject to paragraph (8).

(8) If paragraph (7) applies to a non-GP provider in respect of a scheme year and paragraph (5)(a) or (b) is subsequently satisfied in respect of that scheme year, that non-GP provider shall pay contributions at the rate determined in accordance with paragraph (6).

(9) A host Trust or Board may adjust a non-GP provider’s contribution rate for any scheme year determined in accordance with paragraph (7)—

- (a) by agreement between the host Trust or Board on the one hand and the non-GP provider on the other hand, or
- (b) without such agreement, if the host Trust or Board is satisfied that pensionable earnings of the non-GP provider will exceed the amount used to determine the contribution rate in accordance with that paragraph.

(10) If a member is in non-GP provider service and concurrently in practitioner service in respect of which the member is liable to pay contributions in accordance with regulation 3.C.1, contributions payable in respect of the member's non-GP provider service shall be determined under this regulation and contributions payable in respect of the member's practitioner service shall be determined under regulation 3.C.2.

(11) In determining member contributions payable in accordance with this regulation, a host Trust or Board must take account of pensionable earnings from all non-GP provider sources, including any pensionable earnings as a non-GP provider determined by another host Trust or Board.

(12) An employing authority that is not a host Trust or Board shall, in respect of any pensionable earnings it pays to a non-GP provider, take advice from any relevant host Trust or Board in determining the contributions payable in accordance with this regulation.

(13) Where paragraph (14) does not apply, a non-GP provider shall pay member contributions to the host Trust or Board.

(14) If a non-GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority must—

- (a) deduct contributions due under this regulation from any pensionable earnings it pays to that person, and
- (b) if it is not also the host Trust or Board, pay those contributions to that Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

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

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%

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

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

Substitution of regulation 2.C.5

14. For regulation 2.C.5 (contributions by employing authorities: general), substitute—

“Contributions by employing authorities: general

2.C.5.—(1) The employing authority of a member who is an active member of this Section of the Scheme under this Part must contribute to the scheme, in respect of the pensionable pay, or as the case may be, pensionable earnings of that member, at the rate determined by the Secretary of State and specified in paragraph (4) (“the employer’s standard rate”).

(2) In specifying the employer’s standard rate, the Secretary of State must—

- (a) obtain the consent of the Treasury, and
- (b) take account of the advice of the Scheme actuary and the cost of providing for any increase in pensions under this Section of the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975(5).

(3) If for any period a person holds more than one employment (whether under a contract of service or for services) with an employing authority in respect of which the person is an active member of the Scheme, this regulation and regulation 2.C.6 apply in respect of each of those employments as if it were the only employment held.

(4) The employer’s standard rate is 14.0%.

(5) In any particular case the Secretary of State may direct that, for the purposes of this Chapter, “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)(b) 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;
 - (c) the last employing authority of a person to whom these Regulations apply.
- (6) If a non-GP provider is—
- (a) an employing authority which is a GMS practice, a PMS practice or an APMS contractor, or
 - (b) a shareholder or partner in such an employing authority,

that employing authority shall pay employer's standard rate contributions to the host Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

This is subject to paragraph (7).

(7) If a non-GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (6), each employing authority must pay employer's standard rate contributions on any pensionable earnings it pays to the non-GP provider or, as the case may be, on the non-GP provider's share of the partnership profits, to the host Trust or Board not later than the 7th day of the month following the month in which the earnings were paid.

(8) If paragraph (14) of regulation 2.C.4 applies (but paragraph (6) of this regulation does not) and the employing authority referred to in regulation 2.C.4(14)—

- (a) is not the host Trust or Board, that authority must pay employer's standard rate contributions under this regulation to the host Trust or Board not later than the 7th day of the month following the month in which the earnings were paid;
- (b) is the host Trust or Board, that Trust or Board must pay employer's standard rate contributions under this regulation to the Secretary of State in respect of any pensionable earnings it pays to the non-GP provider.

(9) Not later than the 19th day of the month following the month in which pensionable pay or, as the case may be, pensionable earnings are paid to a member, the employer's standard rate contributions under this regulation must be paid to the Secretary of State—

- (a) in the case of a member other than a non-GP provider, by that member's employing authority,
- (b) in the case of a non-GP provider, by the host Trust or Board.”.

Amendment of regulation 3.C.1

15. In paragraph (1) of regulation 3.C.1 (contributions by members), after “Scheme” insert “(“member contributions”)”.

Amendment of regulation 3.C.2

16.—(1) Regulation 3.C.2 (members' contribution rate) is amended as follows.

(2) For paragraphs (1) to (4), substitute—

“(1) Contributions under regulation 3.C.1(1) must be paid at the member's contribution rate for the scheme year in question.

(2) A member's contribution rate is the percentage specified in column 2 of the relevant table in paragraph (17) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member's pensionable earnings fall.

(3) The Secretary of State shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.”.

(3) In paragraphs (5), (6), (8) and (9), for “the table in paragraph (2)” substitute “the relevant table in paragraph (17)”.

(4) After paragraph (16), add—

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

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1: Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2: Scheme Year 2010-2011

<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%.”

Amendment of regulation 3.C.3

17.—(1) Regulation 3.C.3 (contributions by employing authorities: general) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable earnings of each person who is an active member of the scheme in an employment with the authority, at the rate determined by the Secretary of State and specified in paragraph (5) (“the employer’s standard rate”).”.

(3) For paragraph (5), substitute—

“(5) The employer’s standard rate is 14.0%.”.

PART 4

Miscellaneous

Option to persons detrimentally affected by these Regulations

18.—(1) This regulation applies in relation to any benefit which is being paid, or may become payable, under the regulations amended by these Regulations (“the amended regulations”) to or in respect of a person who having served in an employment or office which qualified the person to

participate in the benefits provided under the amended regulations, ceased to serve in that office or employment before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Secretary of State within 6 months of the coming into force of these Regulations or such longer period as the Secretary of State may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into force of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

Signed by authority of the Secretary of State for Health.

14th June 2010

Simon Burns
Minister of State,
Department of Health

We consent

16th June 2010

Brooks Newmark
Michael Fabricant
Two of the Lords Commissioners of Her
Majesty's Treasury

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations 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 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from various dates 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 as from a date earlier than the making of these Regulations.

The remainder of the Regulations are divided into three Parts, with Parts 2 and 3 amending the 1995 Regulations and the 2008 Regulations respectively and Part 4 providing that certain persons detrimentally affected by these Regulations may elect for the provisions not to apply to them.

Parts 2 and 3 make similar amendments in respect of both the 1995 Regulations and the 2008 Regulations. They also introduce amendments specific to either the 1995 Regulations or the 2008 Regulations.

The changes dealing with similar issues in Parts 2 and 3 (amending the 1995 and 2008 Regulations)

-
- introduce updated pay/earnings bands for the purpose of assessing tiered contribution rates for members and remove the provisions which permit the Secretary of State to change the bands and tiered contribution rates by making a determination (regulations 3, 7, 11, 12, 13, 15 and 16)
 - specify that the current employer contribution rate is 14% (regulations 4, 14, and 17)
 - reflect the respective roles of the Secretary of State, the Treasury, the Scheme Actuary and representatives of employees and employing authorities in the setting of assumptions on which actuarial reports of the scheme’s liabilities are based (regulations 6 and 9).

The changes specific to Part 2 (amending the 1995 Regulations) provide for the scheme’s obligations in respect of guaranteed minimum pensions to remain linked to age 60 for women and age 65 for men (regulation 5).

The changes specific to Part 3 (amending the 2008 Regulations) regroup regulations that deal with the member and employer contributions due in respect of members who are non-GP providers (regulations 10, 13 and 14).

Part 4 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into force of these Regulations (regulation 18).