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STATUTORY INSTRUMENTS

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**2016 No. 245**

The National Health Service Pension Scheme,  
Injury Benefits and Additional Voluntary  
Contributions (Amendment) Regulations 2016

Part 4

Amendment of the National Health Service Pension Scheme Regulations 2015

**General**

**58.** The National Health Service Pension Scheme Regulations 2015(1) are amended as follows.

**Amendment of regulation 21**

**59.** In sub-paragraph (e) of paragraph (1) of regulation 21 (absence from work), after “leave” insert “or shared parental leave”.

**Amendment of regulation 28**

**60.** In sub-paragraph (e) of paragraph (2) of regulation 28 (pensionable earnings: break in service), after “leave” insert “or shared parental leave”.

**Amendment of regulation 37**

**61.** In sub-paragraphs (c) and (d) of paragraph (1) of regulation 37 (members’ contributions: records and estimates), after “regulation 33” insert “, 34 or 35”.

**Amendment of regulation 40**

**62.** In sub-paragraph (a) of paragraph (2) of regulation 40 (eligibility for refund), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

**Amendment of regulation 41**

**63.—**(1) Regulation 41 (amount of refund) is amended as follows.

(2) In sub-paragraph (a) of paragraph (1), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

(3) In sub-paragraph (b) of paragraph (6), for “Chapter 5 of Part 4” substitute “Chapter 2 of Part 4ZA”.

### **Amendment of regulation 63**

- 64.** For paragraph (2) of regulation 63 (repayment of lump sum contribution), substitute—
- “(2) If M dies before the end of the refund period—
    - (a) the amount of the lump sum paid by M must be repaid to M’s representatives;
    - (b) the amount of the lump sum paid by M’s employing authority pursuant to regulation 57 must be repaid to the authority; and
    - (c) the pension account must be closed.
  - (3) If an ill-health pension becomes payable to M before the end of the refund period—
    - (a) the amount of the lump sum paid by M must be repaid to M;
    - (b) the amount of the lump sum paid by M’s employing authority pursuant to regulation 57 must be repaid to the authority; and
    - (c) the pension account must be closed.”.

### **Amendment of regulation 68**

**65.** In sub-paragraph (e) of paragraph (1) of regulation 68 (effect of being absent or leaving and rejoining scheme during contributions payment period), after “leave” insert “or shared parental leave”.

### **Amendment of regulation 92**

**66.** In the definition of “E” in paragraph (3) of regulation 92 (annual rate of ill-health pension), for “M’s” substitute “the day before M reaches”.

### **Amendment of regulation 94**

**67.** In sub-paragraph (c)(i) of paragraph (2) of regulation 94 (early retirement on ill-health (deferred members)), for “paragraph (1)(b)” substitute “paragraph (1)”.

### **Amendment of regulation 110**

**68.** In sub-paragraph (c) of paragraph (10) of regulation 110 (guaranteed minimum pension etc.), for “regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996” substitute “regulation 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015”(2).

### **Amendment of regulation 115**

**69.** For sub-paragraph (b) of paragraph (8) of regulation 115 (amount of pension: survivor of active member), substitute—

- “(b) sub-paragraph (a) does not apply if—
  - (i) the Secretary of State’s liability to provide a guaranteed minimum pension in respect of the surviving adult dependent is discharged by the payment of a contributions equivalent premium under section 55(2) of the 1993 Act, or
  - (ii) a surviving widow, widower or surviving civil partner has been convicted of an offence specified in paragraph 12 of Schedule 3(3) and the Secretary of

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(2) [S.I. 2015/1677](#). Regulation 25 deals with the payment of a lump sum instead of a pension.

(3) Paragraph 12 of Schedule 3 is concerned with the forfeiture of rights to benefits.

State directed, as a consequence of that conviction, that the person's rights to a payment in respect of the member's death is forfeit."

#### **Amendment of regulation 118**

**70.**—(1) Regulation 118 (recent leavers) is amended as follows.

(2) In paragraph (2), for "recent leaver's" substitute "surviving spouse's or surviving civil partner's".

(3) For paragraph (3), substitute—

“(3) Paragraph (2) does not apply if—

- (a) the Secretary of State's liability to provide a guaranteed minimum pension in respect of the surviving spouse or civil partner is discharged by the payment of a contributions equivalent premium under section 55(2) of the 1993 Act, or
- (b) a surviving widow, widower or surviving civil partner has been convicted of an offence specified in paragraph 12 of Schedule 3(4) and the Secretary of State directed, as a consequence of that conviction, that the person's rights to a payment in respect of the member's death is forfeit.”.

#### **Amendment of regulation 123**

**71.** In paragraph (i) of the definition of "B" in paragraph (3) of regulation 123 (amount of child pension: deceased active member), after "day" insert "before".

#### **Amendment of regulation 124**

**72.** In sub-paragraph (b) of paragraph (3) of regulation 124 (amount of child pension: deceased pensioner member), for "A is the deceased's annual pension;" substitute "A is the deceased's annual pension not including any Tier 2 addition determined in accordance with regulation 92(3);".

#### **Amendment of regulation 125**

**73.** In sub-paragraph (b) of paragraph (1) of regulation 125 (amount of child pension: deceased deferred member), omit "an active member or".

#### **Amendment of regulation 131**

**74.** In paragraph (1) of regulation 131 (application of Part)—

- (a) in sub-paragraph (a), for "Chapter 4 of Part 4 of the 1993 Act (transfer values)" substitute "Chapter 1 of Part 4ZA of the 1993 Act (transfer rights: general)";
- (b) in sub-paragraph (b), for "Chapter 5" substitute "Chapter 2".

#### **Amendment of regulation 132**

**75.** In regulation 132 (interpretation of Part), for paragraph (b) of the definition of "transfer value payment" substitute—

“(b) the payment of a transfer value under Chapter 1 of Part 4ZA of the 1993 Act.”.

#### **Amendment of regulation 134**

- 76.—(1) Regulation 134 (right to transfer value payment) is amended as follows.
- (2) In paragraph (2), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”.
  - (3) In paragraph (3), for “Chapter 5” substitute “Chapter 2”.

#### **Amendment of regulation 138**

- 77.—(1) Regulation 138 (how transfer value payments may be applied) is amended as follows.
- (2) For paragraph (1), substitute—
    - “(1) A deferred member (DM) may require the scheme manager to apply the guaranteed cash equivalent transfer value payment only in one of the ways permitted under section 95 of the 1993 Act.”.
  - (3) In paragraph (2), for “M” substitute “a member”.
  - (4) In paragraph (4), for “M’s” (twice) substitute “DM’s”.
  - (5) After paragraph (5), add—
    - “(6) Paragraph (1) applies whether or not DM is entitled to a guaranteed cash equivalent transfer value payment under Chapter 1 of Part 4ZA of the 1993 Act.”.

#### **Amendment of regulation 141**

78. In paragraph (5) of regulation 141 (right to apply for acceptance of transfer value payment), for “(extinguishment of liability of scheme for pensions secured by insurance policies or annuity contracts)” substitute “(discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts)”.

#### **Amendment of regulation 150**

79. In paragraph (8) of regulation 150 (interpretation), omit the definition of “NHS standard contract”.

#### **Amendment of regulation 151**

80. In sub-paragraph (g) of paragraph (3) of regulation 151 (application for employing authority status), for “employment” substitute “employing”.

#### **Amendment of regulation 152**

- 81.—(1) Regulation 152 (grant of employing authority status) is amended as follows.
- (2) In paragraph (1), for “employment” substitute “employing”.
  - (3) For paragraph (2), substitute—
    - “(2) An approval application may nominate a date (“the nominated date”) from which approval by the Secretary of State (if granted) is to have effect.
  - (3) Where paragraph (2) applies and—
    - (a) the Secretary of State is satisfied that the Independent Provider will satisfy the conditions in paragraph (3) of regulation 151 at the nominated date,
    - (b) the Secretary of State accepts the nominated date for approval purposes, and
    - (c) the nominated date is later than the date on which the Secretary of State approves the application,

approval takes effect from the nominated date.

(4) Where paragraph (2) applies and—

- (a) the Secretary of State is satisfied that the Independent Provider did satisfy the conditions in paragraph (3) of regulation 151 at the nominated date,
- (b) the Secretary of State accepts the nominated date for approval purposes,
- (c) the nominated date is earlier than the date on which the Secretary of State approves the application, and
- (d) the Secretary of State has received the contributions referred to in paragraphs (iv) and (v) of paragraph (3) of regulation 151,

approval takes effect from the nominated date.

(5) Where an approval application—

- (a) does not include a nominated date, or
- (b) does include such a date, but which the Secretary of State does not accept for approval purposes,

approval takes effect from the date that it is granted by the Secretary of State.”.

#### **Amendment of regulation 154**

**82.** Paragraph (3) of regulation 154 (IP guarantees) is amended as follows—

- (a) in sub-paragraph (a), for “an independent provider” substitute “that independent provider”;
- (b) in sub-paragraph (b), after “this Part,” insert “that independent provider”.

#### **Amendment of regulation 157**

**83.** After sub-paragraph (a) of paragraph (4) of regulation 157 (pension returns), insert—

- “(ab) a complete list of such of the contracts referred to in sub-paragraph (a) which the Independent Provider has sub-contracted by way of NHS standard sub-contract to a third party: that list must identify the third party and also specify the total gross amounts expressed to be payable under such sub-contracts to that third party;”.

#### **Amendment of Schedule 3**

**84.**—(1) Schedule 3 (administrative matters) is amended as follows.

(2) In paragraph (a) of sub-paragraph (2) of paragraph 6, after “requirements” insert “mentioned in section 9(2) of the 1993 Act”.

(3) In sub-paragraph (6) of paragraph 12, after “sub-paragraph (2)(b)” insert “or if paragraph (4) applies”.

#### **Amendment of Schedule 4**

**85.** For sub-paragraph (6) of paragraph 1 of Schedule 4 (opting out and re-joining), substitute—

“(6) If the person gives a notice mentioned in sub-paragraph (1), the notice must relate to all of the employments or engagements to which group D applies.

(7) Sub-paragraph (8) applies if a person—

- (a) belongs, or would belong, to groups A, B or C in regulation 27(1); and
- (b) has more than one employment to which those groups apply.

(8) Subject to regulation 29, the person may give a notice as mentioned in sub-paragraph (1) in respect of any, or all, of the employments to which groups A, B or C apply.”.

#### **Amendment of Schedule 9**

**86.** In paragraph 15(5) of Schedule 9 (pension accounts), for “(see regulation 45(6))” substitute “(see regulation 45(4) and (5))”.

#### **Amendment of Schedule 10**

**87.**—(1) Schedule 10 (practitioner income) is amended as follows.

(2) Omit the definition of “NHS standard contract” in paragraph 1 (interpretation).

(3) In paragraph (k) of sub-paragraph (2) of paragraph 2 (medical practitioner), after “NHS standard contract” insert “or NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority”.

(4) In sub-paragraph (2) of paragraph 3 (dental practitioner),—

- (a) in paragraph (ii) of the definition of “BP” after “parental leave” insert “, shared parental leave”;
- (b) in paragraph (ii) of the definition of “NRBP” after “parental leave” insert “, shared parental leave”.

(5) In sub-paragraph (3) of paragraph 7 (locum practitioner)—

- (a) in paragraph (h), after “NHS standard contract” insert “, NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority”;
- (b) omit paragraph (i).

#### **Amendment of Schedule 12**

**88.** In sub-paragraph (4)(c) and sub-paragraph (5)(e) of paragraph 3 (dentists) of Schedule 12 (practitioner contribution payments), after “parental leave payments” insert “, shared parental leave payments”.

#### **Amendment of Schedule 15**

**89.** In the table in Schedule 15 (definitions)—

(a) in column 2 of the entry for “locum practitioner”—

(i) at the end of paragraph (2)(g), omit “or”;

(ii) after paragraph (2)(h), add—

“; or

(i) services pursuant to an NHS standard contract or an NHS standard sub-contract.”;

(b) in column 2 of the entry for “practice staff”, substitute—

“means a person who is not a registered medical practitioner, a GP registrar or a non-GP provider and who is employed by a GMS practice, a PMS practice, an APMS contractor or an OOH Provider to assist in the provision of any of the following—

(a) OOH services or services that practice or provider provides pursuant to a GMS contract, PMS agreement or an APMS contract;

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(5) Paragraph 15 is concerned with actuarial reduction of a buy-out.

- (b) services pursuant to an NHS standard contract;
  - (c) services pursuant to an NHS standard sub-contract;
  - (d) clinical health care services for the NHS commissioned by an employing authority that is not a GMS practice, a PMS practice, an APMS contractor, an OOH provider or an Independent Provider;”;
- (c) at the appropriate place in the alphabetical order insert—

““NHS standard contract”	means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012(6)
“NHS standard sub-contract”	means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012(7)
“shared parental leave”	the meaning given in regulation 3(1) of the Shared Parental Leave Regulations 2014”

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(6) S.I. 2012/2996.  
(7) S.I. 2012/2996.