

2006 No. 2919

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service (Pension Scheme and
Compensation for Premature Retirement) Amendment
Regulations 2006**

<i>Made</i> - - - -	<i>6th November 2006</i>
<i>Laid before Parliament</i>	<i>7th November 2006</i>
<i>Coming into force</i> - -	<i>1st December 2006</i>

The Secretary of State for Health, with the consent of the Treasury^(a), makes the following Regulations in exercise of the powers conferred by sections 10(1) and (2), 12(1) and (2) and 24(1), (3) and (4) of, and Schedule 3 to, the Superannuation Act 1972^(b).

In accordance with section 10(4) of that Act, she has consulted with representatives of persons likely to be affected by these Regulations as appeared to her to be appropriate^(c).

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Pension Scheme and Compensation for Premature Retirement) Amendment Regulations 2006.

(2) These Regulations shall come into force on 1st December 2006.

Amendment of the National Health Service Pension Scheme Regulations 1995

2.—(1) The National Health Service Pension Scheme Regulations 1995^(d) shall be amended as follows.

(2) In regulation D2 (contributions by employing authorities)—

(a) in paragraph (3) after “regulation E3 (early retirement on grounds of redundancy)”, insert “or regulation E3A (early retirement pension (termination of employment by employing authority))”;

(b) for paragraph (3)(b), substitute—

“(b) the cost of providing the pension under—

(a) See section 10(1) of the Superannuation Act 1972 (c.11) and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(b) 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; section 24 was amended by section 13(1) of the Police Pensions Act 1976 (c.35).

(c) See section 10(4) of the Superannuation Act 1972.

(d) S.I. 1995/300.

- (i) regulation E4 for the period between the member’s leaving pensionable employment and reaching age 60,
 - (ii) regulation E3A for the period between the member’s leaving pensionable employment and reaching age 60 or, in the case of a member to whom regulation R2 or R3 applies, age 55;”;
 - (c) in paragraph (7)(a) and (b), before “E4”, insert “E3A or”.
- (3) After—
- (a) “regulation E3 (early retirement pension on grounds of redundancy)” in each of the following provisions, insert “or regulation E3A (early retirement pension (termination of employment by employing authority))”—
 - (i) paragraph (3) of regulation M5 (early leavers without pension or preserved pension),
 - (ii) paragraph (3)(b) of regulation R2 (nurses, physiotherapists, midwives and health visitors),
 - (iii) paragraph (9) of regulation R3 (mental health officers),
 - (iv) paragraph (6) of regulation R4 (members doing more than one job);
 - (b) “regulation E3” in paragraph (10A) (twice) and (10B) of regulation R4, insert “or E3A”.
- (4) In paragraph (6) of regulation R5 (part-time employment)—
- (a) after “regulation E3 (early retirement pension (redundancy, etc.))”, insert “or regulation E3A (early retirement pension (termination of employment by employing authority))”;
 - (b) for sub-paragraph (a)(ii), substitute—
 - “(ii) the qualifying service for the purposes of regulation E3(2)(a) or regulation E3A(2)(a);”.
- (5) For regulation E3 (early retirement pension (redundancy etc)), substitute—

“Early retirement pension (redundancy etc. additional provisions)

E3.—(1) This regulation shall apply to a member—

- (a) who—
 - (i) was in pensionable employment on 1st December 2006, or
 - (ii) returns to such employment on, or after, that date and who is entitled to a preserved pension under regulation L1, or
 - (iii) returns to pensionable employment after that date having had a break in such employment which does not exceed 12 months but includes 1st December 2006 and who is not entitled to a preserved pension under regulation L1, or
 - (iv) is certified by his employing authority as having a period of continuous employment (determined in accordance with terms and conditions relevant to that employment and as they applied on 1st October 2006);
 - (b) whose employment is terminated by his employing authority before 1st October 2011; and
 - (c) who satisfies the conditions specified in paragraph (2).
- (2) Those conditions are that—
- (a) he has at least 5 years’ qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;
 - (b) the Secretary of State certifies—
 - (i) that the member’s employment is terminated by reason of redundancy, or
 - (ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which he is employed; and

- (c) his employing authority does not certify that he has unreasonably refused to seek suitable alternative employment or accept an offer of such employment.
- (3) A member who satisfies the conditions in paragraph (2) shall be entitled to a pension calculated as described in regulation E1 (normal retirement pension).
- (4) This regulation does not apply to—
- (a) practice staff;
 - (b) practitioners; or
 - (c) non-GP providers.

Early retirement pension (termination of employment by employing authority)

- E3A.**—(1) This regulation applies to a member—
- (a) whose pensionable employment is terminated by his employing authority; and
 - (b) who satisfies the conditions specified in paragraph (2).
- (2) Those conditions are that—
- (a) he has 2 years’ qualifying service and has attained normal minimum pension age or, where relevant, protected pension age;
 - (b) his employing authority certifies he has at least 2 years’ continuous employment determined in accordance with any terms and conditions applying to that employment;
 - (c) his employing authority does not certify that he has unreasonably refused to seek suitable alternative employment or accept an offer of such employment;
 - (d) the Secretary of State certifies—
 - (i) that the member’s employment is terminated by reason of redundancy, or
 - (ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which he is employed; and
 - (e) he makes a claim for the pension referred to in this regulation.
- (3) A claim referred to in paragraph (2)(e) shall be—
- (a) in writing and addressed to the Secretary of State;
 - (b) made within 6 months of the employment terminating; and
 - (c) contain such information as the Secretary of State may from time to time require.
- (4) A member who satisfies the conditions in paragraph (2) shall be entitled to a pension calculated as described in regulation E1.
- (5) Where a person who claims a pension under this regulation—
- (a) has received—
 - (i) a redundancy payment under the Employment Rights Act 1996(a),
 - (ii) a corresponding payment under the arrangements of the Whitley Councils for the Health Services of Great Britain, or
 - (iii) a payment made by virtue of any arrangement made pursuant to paragraph 17(2) of Schedule 2 to the National Health Service and Community Care Act 1990(b) (National Health Service Trusts – general powers),
 in respect of the cessation of the employment; and
 - (b) the terms and conditions relevant to the employment require that payment or payments to be reduced to take account of the additional contributions the

(a) 1996 c.18.
 (b) 1990 c.19.

employing authority must make to the Secretary of State in accordance with regulation D2(3); but

(c) that payment or payments have not been so reduced,
the pension shall be reduced by an amount equal to the amount of that payment or payments and may be reduced to zero.

(6) This regulation does not apply to—

- (a) practice staff;
- (b) practitioners; or
- (c) non-GP providers.

Early retirement pension (redundancy etc. notifications)

E3B.—(1) This regulation applies to a member—

- (a) who satisfies the conditions specified in regulation E3 and E3A; and
- (b) whose pensionable employment is terminated by his employing authority on, or after, 1st December 2006 but before 1st October 2011.

(2) A member referred to in paragraph (1) may notify the Secretary of State as to which of those regulations he wishes to apply to him and such a notification shall be—

- (a) in writing (but the Secretary of State may, in his discretion, accept notification in another form);
- (b) given within 6 months of the employment terminating; and
- (c) irrevocable.

(3) Where a member does not notify the Secretary of State within the period mentioned in paragraph (2)(b), regulation E3 shall apply.

Early retirement pension (special classes)

E3C.—(1) This regulation applies to a member—

- (a) who has attained the age of 55;
- (b) to whom regulation R2 (nurses, physiotherapists, midwives and health visitors) or regulation R3 (mental health officers) applies, and
- (c) whose employment is terminated on, or after, 1st October 2011, and either—
 - (i) the Secretary of State certifies that that employment is terminated by reason of redundancy, or
 - (ii) with the agreement of the employing authority, the Secretary of State certifies that that employment is terminated in the interests of the efficiency of the service in which he is employed.

(2) A member referred to in paragraph (1) who would, if he made a claim for it, be entitled to a pension in accordance with regulation E3A—

- (a) shall (for the purpose of this regulation) be treated as retiring from pensionable employment on the day on which his employment terminates; and
- (b) shall be entitled to a pension under regulation E1 or E5 if he makes a claim for it.

(3) A claim referred to in paragraph (2)(b) shall—

- (a) be in writing and addressed to the Secretary of State;
- (b) be made within 6 months of the employment terminating; and
- (c) contain such information as the Secretary of State may from time to time require.

Continuing entitlement to an E1 or E5 pension

E3D.—(1) This regulation applies to a member—

- (a) whose employment is certified by the Secretary of State to have terminated by reason of redundancy on, or after, 1st December 2006, and
- (b) who has reached—
 - (i) normal minimum pension age, or, where relevant, protected pension age, or
 - (ii) age 60.

(2) A member referred to in paragraph (1) who would, if made a claim for it, be entitled to a pension in accordance with regulation E3A—

- (a) shall (for the purposes of this regulation) be treated as retiring from pensionable employment on the day on which his employment terminates; and
- (b) shall be entitled to a pension under regulation E1 or E5 if—
 - (i) he satisfies the conditions set out in those regulations, and
 - (ii) he makes a claim for it.

(3) A claim referred to in paragraph (2)(b) shall—

- (a) be in writing and addressed to the Secretary of State;
- (b) be made within 6 months of employment terminating; and
- (c) contain such information as the Secretary of State may from time to time require.”.

Amendment of the National Health Service (Compensation for Premature Retirement) Regulations 2002

3.—(1) The National Health Service (Compensation for Premature Retirement) Regulations 2002(a) shall be amended as follows.

(2) For regulation 3 (persons to whom the Regulations apply), substitute—

“Persons to whom the Regulations apply

3. These Regulations shall apply to an officer who on ceasing to be employed in the employment of an employing authority—

- (a) becomes entitled to benefits in accordance with regulation E3 of the Pension Scheme Regulations; or
- (b) notifies the Secretary of State in accordance with regulation E3B of the Pension Scheme Regulations that he wishes regulation E3 of those Regulations to apply to him.”.

(3) In regulation 5 (crediting of additional period of service) after paragraph (1), insert—

“(1A) Paragraphs (1B) and (1C) shall apply where an entitled officer becomes so entitled on, or after, 1st December 2006 but before 1st July 2007.

(1B) The additional period of service an entitled officer shall be credited with where regulation 5(9) does not apply to him at 30th September 2006, shall be equal to R and determined by the formula—

$$\mathbf{P - Q = R}$$

where—

P is the additional service he would have been credited with applying paragraph (1)(a) or, as the case may be, (1)(b) to his service at 30th September 2006 as if he became so entitled at that date; and

(a) S.I.2002/1311.

Q is the period commencing on, or after, 1st October 2006 and ending on the day on which he does in fact become so entitled.

(1C) Where regulation 5(9) does apply to an entitled officer at 30th September 2006—

- (a) the additional period of service he shall be credited with shall be equal to P (as defined in paragraph (1B)), and
- (b) the amount of compensation payable to him shall be determined in accordance with that regulation except that the “relevant amount” referred to in that regulation shall be reduced by the fraction—

$$\frac{R}{P}$$

and R and P have the same meaning as in paragraph (1B).

(1D) Paragraphs (1E) to (1H) shall apply where an entitled officer becomes so entitled on, or after, 1st July 2007 but before 1st October 2011.

(1E) The additional period of service an entitled officer shall be credited with where regulation 5(9) does not apply to him at 30th September 2006, shall be equal to U and determined by the formula—

$$S - T = U$$

Where—

S (except where paragraph (1F) applies) is the additional service he would have been credited with applying paragraph (1)(a) or, as the case may be, (1)(b) to his service at 30th September 2006 as if he became so entitled at that date; and

T is the period commencing on, or after, 1st October 2006 and ending on the day on which he does in fact become so entitled.

(1F) For the purposes of paragraph (1E) only, where the additional service an entitled officer would have been credited with applying paragraph (1)(a) or, as the case may be, (1)(b) to his service as at 30th September 2006 as if he became so entitled at that date is greater than 5 years (but not otherwise)—

- (a) the excess over 5 years shall be reduced at the rate of 1/60th for each complete month commencing on, or after, 1st October 2006 and ending on the date on which he does in fact become so entitled (with any part day being rounded up to the nearest whole day) (“the relevant fraction”); and
- (b) the result shall be S.

(1G) Where regulation 5(9) does apply to an entitled officer as at 30th September 2006—

- (a) the additional period of service he shall be credited with shall be equal to S (as defined in paragraph (1E)), and
- (b) the amount of compensation payable to him shall be determined in accordance with that regulation except that the “relevant amount” referred to in that regulation shall be reduced by amount X.

(1H) Amount X shall be—

- (a) V (except where (b) applies);
- (b) the product of V+W where the additional service a member would be credited with applying paragraph (1)(a) or, as the case may be, (1)(b) to his service at 30th September 2006 as if he became so entitled at that date is greater than 5 years (but not otherwise),

where—

$$V = (\text{the relevant amount} \times \frac{1825}{S \text{ (in days)}} \times \frac{T \text{ (in days)}}{1825}$$

$$W = (\text{the relevant amount } x \frac{(S \text{ (in days)} - 1825)}{S \text{ (in days)}} x \text{ the relevant fraction}$$

and S and T have the same meaning as in paragraph (1E).

(1I) Where it is more beneficial to an entitled officer to whom paragraphs (1A) to (1C) of this regulation apply—

- (a) those paragraphs shall be ignored; and
- (b) he shall be credited with additional service calculated by applying paragraph (1)(a) or, as the case may be, (1)(b) to his service at 30th September 2006 and as if he became so entitled at that date.”.

Signed by authority of the Secretary of State for Health

3rd November 2006

Norman Warner
Minister of State
Department of Health

We consent
6th November 2006

Kevin Brennan
Claire Ward
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 Pension Scheme Regulations”) and amend the National Health Service (Compensation for Premature Retirement) Regulations 2002 (S.I. 2002/1311) (“the Compensation Regulations”).

Regulation 2 amends the Pension Scheme Regulations by—

- inserting a reference to new regulation E3A in regulation D2 (contributions by employing authorities)
- substituting regulation E3 (early retirement pension) with regulations E3, E3A, E3B, E3C and E3D which deal with members who are made redundant before 1st October 2011 (E3); members whose pensionable employment is terminated by their employing authority (whether before or after that date) (E3A); a member’s notification as to whether he wishes E3 or E3A to apply to him (E3B); special provisions for special classes (E3C) and the right of a member who is entitled to a pension under E3A to claim a pension under E1 or E5 (E3D)
- inserting references to new regulation E3A in regulations M5 (early leavers without a pension or preserved pension); R2 (nurses, physiotherapists, midwives and health visitors); R3 (mental health officers), R4 (members doing more than one job) and R5 (part-time employment).

Regulation 3 amends the Compensation Regulations by—

- substituting a new regulation 3 (persons to whom the Regulations apply) so that it refers to both regulation E3 and E3B of the Pension Scheme Regulations
- amending regulation 5 (crediting of additional period of service) in respect of the calculation of additional periods of service for those who are made redundant on, or after, 1st December 2006 but before 1st July 2007 (new paragraphs (1A) to (1C) and (1I)) and those who are made redundant on, or after, 1st July 2007 but before 1st October 2011 (new paragraphs (1D) to (1H)).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

£3.00

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