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STATUTORY INSTRUMENTS

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**2008 No. 654**

**The National Health Service Pension  
Scheme (Amendment) Regulations 2008**

**Insertion of new regulations G14-G17**

**29.** After regulation G13 insert—

**“Surviving nominated partner’s pension**

**G14.—**(1) A member who has pensionable service on or after 1st April 2008 may, by giving notice in writing to the Secretary of State, nominate a person (“the nominated partner”) to receive a surviving nominated partner pension on the member’s death and such a nomination shall be effective from the date the Secretary of State accepts it.

(2) The Secretary of State must accept a member’s nomination if—

- (a) the member and the nominated partner have jointly made and signed a declaration in the form required by the Secretary of State that remains effective at the member’s death; and
- (b) the nominated partner satisfies the Secretary of State that for a continuous period of at least two years ending with the member’s death—
  - (i) the member and the nominated partner were living together as if they were husband and wife or civil partners; or
  - (ii) the member and the nominated partner were not prevented from marrying or entering into a civil partnership; or
  - (iii) the member and the nominated partner were financially interdependent or the nominated partner was financially dependent on the member; or
  - (iv) neither the member nor the nominated partner was living with a third person as if they were husband and wife or as if they were civil partners.

(3) A declaration under paragraph (2)(a) ceases to have effect if—

- (a) it is revoked by the member or the nominated partner by a signed notice in writing given to the Secretary of State in the required form (if any); or
- (b) the member makes a later declaration under paragraph (2)(a); or
- (c) the member or the nominated partner marries or enters into a civil partnership.

(4) If the Secretary of State has accepted a member’s nomination and the member subsequently dies before the member’s nominated partner in the circumstances described in any of regulations G2 to G6, the nominated partner is entitled to a pension as described in paragraphs (6) to (10) of this regulation.

(5) Subject to paragraph (6), regulations G1 to G6 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows and paragraph (1) of regulation G6 shall be read as if, for the words “where the member and the member’s wife were not married to each other”, it said “where a nomination for a surviving partner pension was not effective” .

(6) When calculating a nominated partner's pension, any part of the member's benefit that is based on pensionable service before 6th April 1988 will, subject to paragraphs (7) and (8), be disregarded.

(7) If paragraphs (3) or (3C) of regulation G2 or paragraphs (2) or (2A) of regulation G4 apply to the calculation of the nominated partner's pension on a member's death in pensionable employment or with a preserved pension—

- (a) the whole of the member's pensionable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation E2(3) or E2A(4) in the pensionable service on which the member's pension under regulation E2 or E2A would have been based; and
- (b) the whole period (if any) by which the member's pension would have been increased will be treated as pensionable service after 5th April 1988.

(8) If regulation G3(2) applies to the calculation of the nominated partner's pension, so that the nominated partner's pension is equal to the member's pension for a limited period, the nominated partner's pension for that limited period will be equal to the whole of the member's pension (including any part of the member's pension that is based on pensionable service before 6th April 1988).

(9) Any reference in these Regulations to regulations G1 to G6 means, in relation to benefits in respect of a member who has nominated a partner, those regulations as applicable to the member's nominated partner (if any).

#### **Dependent surviving nominated partner's pension**

**G15.**—(1) A member may, by giving notice in writing to the Secretary of State before leaving pensionable employment, apply for the member's nominated partner to receive a dependent surviving nominated partner's pension on the member's death.

(2) The Secretary of State must accept a member's application only if the Secretary of State is satisfied that the member's nominated partner is—

- (a) permanently incapable of earning a living because of physical or mental infirmity; and
- (b) wholly or mainly dependent on the member.

(3) If the Secretary of State has accepted a member's application and the member subsequently dies before the member's nominated partner, the dependent surviving nominated partner is entitled to a dependent surviving nominated partner's pension.

(4) The dependent surviving nominated partner's pension is to be calculated in the same way as a widow's pension under regulations G1 to G6 but based only on the member's pensionable service before 6th April 1988.

(5) If the Secretary of State has accepted a member's application for a dependent surviving nominated partner's pension and the member's pensionable service started before 6th April 1988 any lump sum payable to the member will be reduced by an amount equal to 1.4 times the yearly rate of the part of the member's pension that is based on pensionable service before 6th April 1988 (except to the extent that any reduction has been off-set under regulation Q2).

(6) If regulation E2(10), regulation E2A(10) or regulation L1(8) (ill health retirement pensions and preserved pension) applies to a member who has a nominated partner, any reference in those provisions to a lump sum payable on retirement means, in relation to a member to whom paragraph (5) of this regulation refers, a lump sum that is not reduced as described in that paragraph.

### **Purchase of surviving partner's pension in respect of service before 6th April 1988**

**G16.**—(1) Subject to this regulation, an officer in respect of whom a pension has not already become payable under regulation E2 or E2A (ill health retirement pensions) may, in respect of the whole or any part of the member's contributing service before 6th April 1988, elect to purchase an increase in the amount of any survivor's pension that becomes payable under the scheme.

(2) The purchase of an increase under paragraph (1) may be made only in respect of complete years of service, unless the officer wishes to purchase an increase in respect of all of the member's service before 6th April 1988, in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election under paragraph (1)—

- (a) must not be made later than 30th June 2009;
- (b) must be made by notice in writing, given to the Secretary of State;
- (c) must specify the period in respect of which the election is made;
- (d) must be accompanied by a declaration in writing signed by the officer that he is of sound health for the member's age;
- (e) is irrevocable.

(4) Each figure in tables 2 and 4 of Schedule 1 is multiplied by a factor of 0.7 in respect of the cost of providing the increase provided under paragraph (1).

(5) In this regulation "survivor's pension" means a pension that becomes payable by virtue of —

- (a) regulation G7; or
- (b) regulation G10; or
- (c) regulation G14.

### **Increased surviving partner's pension**

**G17.**—(1) If a member elects on or before 30th June 2009 to buy an increased surviving partner's pension under regulation G16(1), any survivor's pension that becomes payable in respect of that member will be based on pensionable service after 5th April 1988 plus any period of pensionable service before that date that the member elected to buy for this purpose under regulation G16(1).

(2) Any survivor's pension payable in respect of the member shall be paid to (as the case may be) the member's surviving widower, civil partner or nominated partner regardless of whether that pension is payable by virtue of regulation G7, regulation G10 or regulation G14.

(3) Subject to paragraph (4), any retirement lump sum payable to a member under regulation E6, in respect of any period of pensionable service that the member elected to buy as described in paragraph (1), will be reduced by 1.4 times the yearly rate of the member's pension plus the relevant daily proportion of that rate for each additional day (except to the extent that any lump sum reduction has been off-set under regulation Q2) (right to buy an unreduced retirement lump sum).

(4) If regulation E2(10), regulation E2A(10) or regulation L1(8) (ill health retirement pensions and preserved pension) applies to a member to whom this regulation refers, any reference in those regulations to a lump sum payable on retirement must be taken to mean a lump sum that is not reduced as described in paragraph (2) of this regulation.

(5) Subject to paragraph (6) if, by virtue of an election under regulation G16(1), the amount of the retirement lump sum would fall to be reduced by 1.4 times the yearly rate of a member's pension plus the relevant daily proportion of that rate for each additional day, he may make an election to purchase an unreduced lump sum under regulation Q2 provided that the election is made no later than 30th June 2009.

(6) A member who has purchased additional service in accordance with regulation Q1 by way of a payment under regulation Q6 is not entitled to make an election under paragraph (4) in respect of the purchase of an unreduced lump sum.”.

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**Commencement Information**

**II** Reg. 29 in force at 1.4.2008, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service Pension Scheme (Amendment) Regulations 2008, Section 29.