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STATUTORY INSTRUMENTS

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**2008 No. 654**

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

**Amendment of regulation H3**

- 31.**—(1) Regulation H3 (member dies in pensionable employment) is amended as follows.
- (2) In paragraph (2) after “paragraph (3),” insert “if the member dies before 1st April 2008”.
- (3) After paragraph (2) insert—
- “(2A) If the member died on or after 1st April 2008 the allowance will be calculated as described in whichever of paragraphs (4A) or (4D) apply—
- (a) as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill health and had qualified for a tier 2 pension under regulation E2A on the day the member died; or
- (b) if greater, the amount that the member’s pension would have been if it had been based on 10 years pensionable service.”.
- (4) After paragraph (4) insert—
- “(4A) Subject to paragraphs (4B) to (4E), if the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2A) if there is only one dependent child and one-half if there are two or more.
- (4B) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation G2(3B), the allowance payable in respect of any dependent child who is dependent on that widow, widower, surviving civil partner or surviving nominated partner will be payable from the day following the member’s death.
- (4C) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation G2(3B) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or surviving nominated partner, the allowance in respect of that child for the first three months after the member’s death will be equal to the rate of member’s pensionable pay when the member died.
- (4D) If a member dies leaving a dependent child and there is no surviving parent (or spouse, civil partner or nominated partner of a parent), the allowance will be equal to one-third of the pension described in paragraph (2A) if there is only one dependent child and two-thirds if there are two or more, except that the allowance for the first six months after the member’s death will be equal to the rate of the member’s pensionable pay when the member died.
- (4E) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or nominated partner of a parent) but there is no entitlement to a widow’s, widower’s or surviving civil partner’s pension calculated under regulation G2 (member dies in pensionable employment), the allowance will be paid at the rates described in paragraph (4D).”.

(5) For paragraph (9) after “pay contributions”, insert “on or before 1st April 2008” and for “paragraphs (2) to (8)”, substitute “paragraph (2)”.

(6) After paragraph (10) insert—

“(11) The child allowance payable on a member’s death if, on the day the member died, the member is—

- (a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;
- (b) in NHS employment;
- (c) no longer required to pay contributions on or after 2<sup>nd</sup> April 2008 pursuant to regulation D1(3) or (4) (contributions by members); and
- (d) except where regulation R4(6) (members doing more than one job) applies, not in receipt of a pension under any of regulations E1 to E5,

will be as described in paragraph (2A) but with the modifications set out in paragraph (12).

(12) The modifications referred to in paragraph (11) are—

- (a) in paragraph (2A)(a) for “on the day he died” substitute “on the member’s last day of pensionable employment”; and
- (b) in both paragraph (4C) and (4D) for “member’s pensionable pay when he died” substitute “member’s final year’s pensionable pay”.

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**Commencement Information**

**II** Reg. 31 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 31.