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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 H5**

**33.**—(1) Regulation H5 (member dies with preserved pension) is amended as follows.

(2) In paragraph (2)—

- (a) for “if the member dies” substitute “Subject to paragraph (2A), if the member dies”;
- (b) omit “and, if applicable, H3(3)”.

(3) After paragraph (2) insert—

“(2A) Subject to paragraph (2B), if the member’s pensionable employment ceased on or before 31st March 2008 the allowance will be calculated, as described in whichever of paragraphs (4) or (5) apply, as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill health with a pension under regulation E2 on the day the member died.

(2B) If the member has less than 5 years’ pensionable service, the allowance will be calculated as if the pension described in paragraph (2A) were based on the shorter of—

- (a) 10 years’ pensionable service; and
- (b) the pensionable service the member could have completed if the member stayed in pensionable employment until age 65.”.

(4) For paragraph (3) substitute—

“(3) Subject to paragraph (3A), if the member dies 12 months or more after leaving pensionable employment, the allowance will be calculated as described in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the member’s preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on 10 years’ pensionable service.

(3A) If the member’s pensionable employment ceased on or before 31st March 2008, the allowance will be calculated as described in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the member’s preserved pension or, if greater, the amount of that the preserved pension would have been if it had been based on the shorter of—

- (a) 10 years’ pensionable service; and
- (b) the pensionable service the member could have completed if the member stayed in pensionable employment until age 65.”.

(5) In paragraphs (4) and (5)(1)—

- (a) after “or civil partner”, insert “or nominated partner”;
- (b) for “paragraph (2)”, substitute “paragraphs (2) to (3A)”.

(6) In paragraph (6)(2)—

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(1) Paragraphs (4) and (5) were amended by [S.I. 2005/3074](#).  
(2) Paragraph (6) was amended by [S.I. 2005/3074](#).

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**Changes to legislation:** There are currently no known outstanding effects for the The National Health Service Pension Scheme (Amendment) Regulations 2008, Section 33. (See end of Document for details)

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- (a) after “or civil partner”, insert “or nominated partner”;
- (b) for “or surviving civil partner’s”, substitute “, surviving civil partner’s or surviving nominated partner’s”.

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**Commencement Information**

**II** Reg. 33 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 33.