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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 R9**

**55.**—(1) Regulation R9 (members whose earnings are reduced) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) The Secretary of State may agree to pay a preserved pension under regulation L1 in respect of a member’s pensionable service before the member’s earnings were reduced if—

- (a) the member has at least two years qualifying service; and
- (b) within the three month period after the member’s earnings are reduced that member’s employer certifies that the reduction is due to the circumstances described in paragraph (2); or
- (c) the member satisfies all of the conditions specified in paragraph (2A).

(2) The circumstances referred in paragraph (1)(b) are that the reduction is due to—

- (a) the member being transferred to other employment with an employing authority; or
- (b) the member taking up other employment with an employing authority, in circumstances approved by the Secretary of State; or
- (c) a change in the member’s duties, while continuing in the same employment, otherwise than at the member’s request or as a result of something done by the member.

(2A) The conditions referred to in paragraph (1)(c) are that—

- (a) the member has attained normal minimum pension age or, where relevant, protected pension age;
- (b) the member makes an election and the Secretary of State has not previously accepted an election made by that member, and
- (c) the member’s employer has certified that—
  - (i) the member’s pensionable pay is reduced by at least 10 per cent for a period of at least one year beginning with the first pay day on which the reduced pensionable pay was paid;
  - (ii) for a period of at least 12 months ending immediately before the reduction referred to in (i), the member’s pensionable pay had not been subject to any other reduction;
  - (iii) the reduction to the member’s pensionable pay is the result of a change to that member’s duties so that the member’s new, or remaining, duties are less demanding and carry less responsibility than the member’s previous duties.”.

(3) For paragraph (4), substitute—

- “(4) An election referred to in paragraph (2A) of this regulation must be made—
- (a) in writing and addressed to the Secretary of State, and
  - (b) within 15 months of the member’s pensionable pay being reduced.”.

(4) In paragraph (5) for “exercising the option described in this regulation”, substitute “the Secretary of State agrees to pay a preserved pension under regulation L1 in accordance with paragraph (1)”.

(5) In paragraph (6)(b) after “(early retirement pension on grounds of ill health)”, insert “or E2A”.

(6) For paragraph (7), substitute—

“(7) If the member leaves pensionable employment with a pension under regulation E2 or E2A and the member’s pensionable service falls to be increased as described in—

- (a) paragraphs (4) to (6) of regulation E2; or
- (b) paragraphs (4) to (6) of regulation E2A

then, if the member’s pensionable service before and after the break is treated separately under paragraph (5), the increase will apply only in respect of benefits attributable to the period after the member’s earnings were reduced.

(8) For the purposes of this regulation, “pensionable pay” in respect of part-time employment means the amount that the Secretary of State determines would have been paid in respect of a single comparable whole-time employment.”.

**Commencement Information**

**II** Reg. 55 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 55.