
STATUTORY INSTRUMENTS

2008 No. 654

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

Insertion of new regulation U4

[^{F1}64]. After regulation U3 (accounts and actuarial reports) insert—

“Cost sharing

U4.—(1) The actuarial report referred to in regulation U3 (accounts and actuarial reports) shall specify—

- (a) a recommended contribution rate (RCR), and
- (b) a projected yield from members' contributions (PYM).

(2) Paragraphs (3) to (10) apply in respect of the actuarial report covering the period commencing on 1st April 2004 and ending on 31st March 2008 (“the 2004-2008 Report”) and, unless otherwise stated, references to the RCR in those paragraphs are to the RCR specified in the 2004-2008 Report.

(3) Where the RCR differs from 20.5 per cent, that difference shall be the cost change element (CCE).

(4) The Secretary of State shall, having taken advice from the scheme Actuary determine—

- (a) that part of the CCE which shall not be shared between the members and the employing authorities (the un-shared element (USE)), and
- (b) that part of the CCE which shall be shared between the members and the employing authorities (the shared element (SE)),

but before making such a determination, the Secretary of State shall consider any advice relating to the elements referred to in (a) and (b) from such employee and employer representatives as appear to the Secretary of State to be appropriate.

(5) Where RCR minus PYM is less than 14 per cent, contributions paid by employing authorities shall be equal to 14 per cent.

(6) Where RCR minus PYM is equal to or greater than 14 per cent but less than or equal to 14.2 per cent, contributions paid by employing authorities shall be equal to RCR minus PYM.

(7) Where—

- (a) RCR minus PYM is greater than 14.2 per cent, and
- (b) USE is greater than 0.0 per cent

contributions paid by employing authorities shall be equal to the lower of—

- (i) RCR minus PYM and
- (ii) 14.2 per cent + USE.

(8) Where—

- (a) RCR minus PYM is greater than 14.2 per cent, and
- (b) USE is less than or equal to 0.0 per cent,

contributions paid by employing authorities shall be equal to 14.2 per cent.

(9) If RCR is greater than the sum of—

- (a) the rate payable by employing authorities as determined under paragraphs (5) to (8), and
 - (b) PYM,
- the Secretary of State may—

(i) after consultation with such representatives of employees and employing authorities as appear to the Secretary of State to be appropriate, and

(ii) with the consent of the Treasury and on the advice of the Scheme Actuary, amend member contributions and or benefits so that the rate payable by employing authorities as determined under paragraphs (5) to (8) is equal to Amount A.

(10) For the purposes of paragraph (9)—

- (a) Amount A is the difference between the adjusted RCR and the adjusted PYM, and
- (b) adjusted RCR and adjusted PYM mean the RCR and PYM that would have been specified in the 2004-2008 Report had that Report been drawn up on the basis that any amendment to member contribution rates and scheme benefits made by the Secretary of State pursuant to paragraph (9) had already taken place.

(11) Paragraphs (12) to (17) apply in respect of the actuarial report covering the period commencing on 1st April 2008 and ending on 31st March 2012 and subsequent reports and, unless otherwise stated, references to RCR in those paragraphs are to the RCR recommended in the actuarial report for the relevant period.

(12) Where the RCR specified in the current actuarial report differs from 20.5 per cent, that difference shall be the cost change element (CCE).

(13) The Secretary of State shall, having taken advice from the scheme Actuary determine —

- (a) that part of the CCE which shall not be shared between the members and the employing authorities (the un-shared element (USE)), and
- (b) that part of the CCE which shall be shared between the members and the employing authorities (the shared element (SE)),

but before making such a determination, the Secretary of State shall consider any advice relating to the elements referred to in (a) and (b) from such employee and employer representatives as appear to the Secretary of State to be appropriate.

(14) Where RCR is equal to or greater than 20.5 per cent + USE, contributions paid by employing authorities shall be equal to 14 per cent + USE.

(15) Where RCR is less than 20.5 per cent + USE, contributions paid by employing authorities shall be equal to;

$$RCR - 6.5\% + X$$

Where—

$$\frac{(20.5\% + USE - RCR)}{2}$$

X = and, where X is not a multiple of 0.1 per cent, X is rounded to the nearest odd multiple of 0.1 per cent.

- (16) If RCR is not equal to the sum of—
- (a) the rate payable by employing authorities as determined under paragraphs (14) and (15), and
 - (b) PYM,
- the Secretary of State may—
- (i) after consultation with such representatives of employees and employing authorities as appear to the Secretary of State to be appropriate, and
 - (ii) with the consent of the Treasury and on the advice of the Scheme Actuary,
- amend member contributions and or benefits so that the rate payable by employing authorities under paragraphs (14) to (15) is equal to Amount B.
- (17) For the purposes of paragraph (16)—
- (a) Amount B is the difference between the adjusted RCR and the adjusted PYM, and
 - (b) adjusted RCR and adjusted PYM mean the RCR and PYM that would have been specified in the 2004-2008 Report had that Report been drawn up on the basis that any amendment to member contribution rates and scheme benefits made by the Secretary of State pursuant to paragraph (16) had already taken place.
- (18) In this regulation—
- (a) RCR, PYM, CCE, USE and SE shall be expressed as percentages to the nearest 0.1 per cent,
 - (b) USE may include changes to RCR resulting from changes in—
 - (i) the financial assumptions,
 - (ii) the actuarial methodology,used to calculate RCR for the purposes of the immediately preceding actuarial report under regulation U3 where the current report is not the 2004-2008 Report, or where the 2004-2008 Report is the current report, that Report,
 - (c) SE may include changes to RCR resulting from changes in—
 - (i) the underlying membership data,
 - (ii) the demographic assumptions,used to calculate RCR for the purposes of the immediately preceding actuarial report under regulation U3 where the current report is not the 2004-2008 Report, or where the 2004-2008 Report is the current report, that Report,
 - (d) CCE, USE and SE may be positive or negative.”.

F1 Regs. 62-66: incorrectly numbered regs. 1-5 following reg. 61 renumbered as regs. 62-66 (31.3.2008) by [The National Health Service Pension Scheme \(Correction to Amendment\) Regulations 2008 \(S.I. 2008/906\)](#), regs. 1(2), **2(3)**

Commencement Information

II Reg. 64 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 64.