
STATUTORY INSTRUMENTS

2008 No. 654

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

Amendment of Schedule 2

[^{F1}65].—(1) Schedule 2 is amended as follows.

(2) In paragraph 1 (additional definitions used in this Schedule), in sub-paragraph (b) of the definition of “commissioned services”—

(a) in sub-sub-paragraph (iii), for “paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990 (National Health Service trusts—specific powers)” substitute “paragraph 18 of Schedule 4 to the 2006 Act or paragraph 18 of Schedule 3 to the 2006 (Wales) Act”;

(b) in sub-sub-paragraph (iv), for “section 18(2)(b) of the Health and Social Care (Community Health and Standards) Act 2003” substitute “section 47(2)(b) of the 2006 Act”.

(3) In paragraph 2(1) (application of Regulations with modifications) omit “Health Authority or” (where twice occurring).

(4) In paragraph 2A (Membership: locum practitioners)—

(a) sub-paragraph (4) is omitted;

(b) in sub-paragraph (5) for “Except where sub-paragraph (4) applies, no”, substitute “No”.

(5) In paragraph 3(2B)(a)(ii) (meaning of pensionable earnings) after “paternity leave”, insert “, parental leave”.

(6) In paragraph 5(4), (5) and (6)(1) (elections relating to calculation of pensionable earnings in medical partnerships) omit “Health Authority or”.

(7) In paragraph 8(2) (limit on pensionable earnings—dental practitioners)—

(a) in sub-paragraph (2) after “1995”, insert “and ending before 1st April 2008”;

(b) in sub-paragraph (3) omit “Health Authority, or”.

(8) In paragraph 9(3) (officer service treated as practitioner service)—

(a) in sub-paragraph (1) omit “Health Authority,” (where twice occurring);

(b) in sub-paragraph (5) after “E2”, insert “or E2A”;

(c) in sub-paragraph (5A)(b) omit “Health Authority,”;

(d) in sub-paragraph (8) omit “Health Authority or”;

(9) For paragraph 10(2) (contributions to the scheme) substitute—

“(2) The contribution rate for practitioners and non-GP providers is as set out in the following tables.

(1) Paragraph (5) was amended by [S.I. 2005/661](#).

(2) Paragraph (8) was amended by [S.I. 2002/2469](#).

(3) Paragraph (9) was amended by [S.I. 2006/600](#).

2007-2008

<i>Column 1</i>	<i>Column 2</i>
<i>Amount of pensionable earnings</i>	<i>Contribution rate</i>
Up to £19,682	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

2006-2007

<i>Column 1</i>	<i>Column 2</i>
<i>Amount of pensionable earnings</i>	<i>Contribution rate</i>
Up to £19,165	5%
£19,166 to £63,416	6.5%
£63,417 to £99,999	7.5%
£100,000 to any higher amount	8.5%

2005-2006

<i>Column 1</i>	<i>Column 2</i>
<i>Amount of pensionable earnings</i>	<i>Contribution rate</i>
Up to £18,697	5%
£18,698 to £61,869	6.5%
£61,870 to £97,560	7.5%
£97,561 to any higher amount	8.5%

(2A) The Secretary of State may make a determination substituting any or all of the amounts of pensionable earnings or contribution rates specified in the tables in subparagraph (2) with effect from the date specified in the determination, and before making a determination the Secretary of State must consider—

- (a) the advice of the Scheme Actuary, and
- (b) in accordance with regulation U4 (cost sharing), advice from such employee and employer representatives as the Secretary of State considers appropriate.

(2B) If, apart from this paragraph, the earnings for a scheme year in respect of a member's Practitioner or non-GP provider service would not be a whole number of pounds, those earnings will be rounded down to the nearest whole pound.

(2C) If, in the 2008-2009 scheme year a member is in practitioner and non-GP provider service as well as (concurrently) employment other than as a practitioner in respect of which he is liable to pay contributions in accordance with regulation D1, the contributions payable in respect of the member's—

- (a) practitioner or non-GP provider service, shall be determined in accordance with the provisions of these regulations that apply to a practitioner or non-GP provider, and

(b) employment as an officer, shall be determined in accordance with the provisions of these regulations that apply to an officer.

(2D) For the purposes of this paragraph, “zero hours contract” means pensionable employment as an officer in respect of a contract under which—

- (a) an employing authority does not guarantee to provide work for the member;
- (b) there are no specified working hours or working patterns;
- (c) the member is paid only for work actually done under it.

(2E) Sub-paragraphs (2F) to (2O) apply to practitioners (other than a dentist performer) and non-GP providers.

(2F) If the practitioner or non-GP provider—

- (a) was in pensionable employment throughout the 2007–2008 scheme year or began such employment during that year; and
- (b) was in such employment on 1st April 2008,

sub-paragraphs (2G) to (2I) apply.

(2G) If the practitioner or non-GP provider—

- (a) was engaged in pensionable employment as a practitioner or non-GP provider throughout the whole of the 2006–2007 scheme year; and
- (b) has, in accordance with paragraph 23, certified the member’s pensionable earnings for the 2006–2007 scheme year and forwarded a record of those earnings to the host Trust or Board, or is not required to certify earnings in accordance with that paragraph but the host Trust or Board has the member’s final pensionable earnings figure,

the contributions payable for the 2008–2009 scheme year shall be those specified in column 2 of Table 2 in respect of the amount of pensionable earnings referred to in column 1 of that Table which correspond to the certified or final earnings for the aggregated total of all practitioner or provider sources for the 2006–2007 scheme year.

(2H) If (2G) does not apply and a practitioner or non-GP provider—

- (a) was engaged in pensionable employment as practitioner or non-GP provider throughout the whole of the 2005–2006 scheme year; and
- (b) has, in accordance with paragraph 23, certified the member’s pensionable earnings for the 2005–2006 scheme year and forwarded a record of those earnings to the host Trust or Board, or is not required to certify earnings in accordance with that paragraph but the host Trust or Board has the member’s final pensionable earnings figure,

the contributions payable for the 2008–2009 scheme year shall be those specified in column 2 of Table 3 in respect of the amount of pensionable earnings referred to in column 1 of that Table which correspond to the certified or final earnings for the aggregated total of all practitioner or provider sources for the 2005–2006 scheme year.

(2I) If paragraphs (2G) or (2H) do not apply—

- (a) that practitioner’s or, as the case may be, the non-GP provider’s pensionable earnings in respect of the 2008–2009 scheme year shall be the amount agreed between the host Trust or Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner’s or non-GP provider’s earnings from all practitioner or provider sources for that year, and

- (b) contributions payable for that year shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2J) If the practitioner or non-GP provider commences pensionable employment for the first time (having no earlier practitioner or non-GP provider service) at any time during the 2008–2009 scheme year —

- (a) that practitioner’s or, as the case may be, the non-GP provider’s pensionable earnings for that scheme year shall be the amount agreed between the host Trust or Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner’s or non-GP provider’s earnings from all practitioner or provider sources for that year, and
- (b) contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2K) If a practitioner or non-GP provider—

- (a) commences further pensionable employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has existing or previous employment during that scheme year as a practitioner or as a non-GP provider in respect of which he is, or was, liable to pay contributions in accordance with this paragraph (“the earlier employment”), and
- (c) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in NHS employment other than as a practitioner during the 2008-2009 scheme year,

that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2L) If a practitioner or non-GP provider—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has previous employment during that scheme year in respect of which he was liable to pay contributions to the scheme as a dentist performer in accordance with this paragraph (“the earlier employment”); and
- (c) has ceased the earlier employment prior to commencing the later employment, and
- (d) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in NHS employment other than as a practitioner during the 2008-2009 scheme year,

that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate determined in accordance with paragraph (2J).

(2M) If a practitioner or non-GP provider—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has no previous practitioner or non-GP provider employment in that scheme year;
- (c) has previous employment as an officer on a whole-time or part-time basis employment during that scheme year (excluding any employment under a zero hours contract) in respect of which he was liable to pay contributions to the scheme in accordance with regulation D1 (“the earlier employment”), and

(d) has ceased the earlier employments prior to commencing the later employment, that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2N) Where (2M) applies and the practitioner or non-GP provider had two or more earlier officer employments, that practitioner or non-GP provider shall pay contributions in respect of the later employment at the same rate as that which applied to whichever of the earlier officer employments was the last to cease.

(2O) Where (2N) applies and all of the earlier officer employments or the last two of them cease on the same day—

- (a) that practitioner's or non-GP provider's pensionable earnings in respect of the later employment referred to in paragraph (2M)(a) shall be the amount agreed between the host Trust or Board on the one hand and the practitioner or provider on the other as representing their estimate of the practitioner's or provider's pensionable earnings from all practitioner or provider sources for that year, and
- (b) contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table which corresponds to those estimated earnings.

(2P) If a dentist performer—

- (a) was in pensionable employment as a dentist performer throughout the 2007–2008 scheme year or began such employment during that year, and
- (b) was in such employment on 1st April 2008,

sub-paragraphs (2Q) or (2R) apply.

(2Q) If a dentist performer was in pensionable employment as a dentist performer during any part of the 2006–2007 scheme year—

- (a) that performer's pensionable earnings shall be determined by applying the formula—

$$\frac{PER}{NDPE} \times 365$$

where—

PER is the total of all dentist performer pensionable earnings received during that part of the scheme year referred to in sub-paragraph (a);

NDPE is the number of days of pensionable employment, and

- (b) the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 2 in respect of the amount of pensionable earnings referred to in column 1 of that Table corresponding to the practitioner's pensionable earnings for the 2006–2007 scheme year calculated in accordance with sub-paragraph (a).

(2R) If (2Q) does not apply and the dentist performer was engaged in pensionable service as a dentist performer during any part of the 2007–2008 scheme year—

- (a) that performer's pensionable earnings shall be determined by applying the formula—

$$\frac{PER}{NDPE} \times 365$$

where—

PER is the total of all dentist performer pensionable earnings received during that part of the scheme year referred to in paragraph (2R)(a);

NDPE is the number of days of pensionable employment, and

- (b) the contributions payable for the 2008-2009 scheme year shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table which correspond to the performer's pensionable earnings for the 2007-2008 scheme year calculated in accordance with sub-paragraph (a).

(2S) If a dental performer commences pensionable employment for the first time (having no earlier dentist performer employment) at any time during the 2008–2009 scheme year—

- (a) that performer's pensionable earnings shall be determined by applying the formula—

$$\frac{EPE}{NDPE} \times 365$$

where—

EPE is an estimate of the practitioner's pensionable earnings from all sources for the days of pensionable employment in the 2008–2009 scheme year; and

NDPE is the number of days of pensionable employment, and

- (b) contributions payable shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table corresponding to the practitioner's pensionable earnings for the 2008–2009 scheme year calculated in accordance with this sub-paragraph.

(2T) If a dentist performer—

- (a) commences further pensionable employment as a dentist performer at any time during the 2008-2009 scheme year (“the later employment”); and
- (b) has existing or previous pensionable employment during that scheme year as a dentist performer in respect of which he is, or was, liable to pay contributions in accordance with this paragraph (“the earlier employment”),

that dentist performer shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(2U) If a dentist performer—

- (a) commences employment as a dentist performer at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has previous employment during that scheme year in respect of which he was liable to pay contributions to the scheme as a practitioner (other than a dentist performer) or a non-GP provider in accordance with this paragraph (“the earlier employment”);
- (c) has ceased the earlier employment prior to commencing the later employment, and
- (d) regardless of whether or not the practitioner or non-GP provider also is, or previously was, in NHS employment other than as a practitioner during the 2008-2009 scheme year,

that dentist performer shall pay contributions in respect of the later employment at the same rate determined in accordance with paragraph (2J).

(2V) If a dentist performer—

- (a) commences employment as a practitioner or non-GP provider at any time during the 2008-2009 scheme year (“the later employment”);
- (b) has no dentist performer employment in that scheme year;
- (c) has previous employment as an officer on a whole-time or part-time basis during that scheme year (excluding any employment under a zero hours contract) in respect of which he was liable to pay contributions to the scheme in accordance with regulation D1 (“the earlier employment”), and
- (d) has ceased the earlier officer employments prior to commencing the later employment,

that dentist performer shall pay contributions in respect of the later employment at the same rate as that which applied to the earlier officer employment.

(2W) Where (2V) applies and the dentist performer had two or more earlier officer employments, that dentist performer shall pay contributions in respect of the later employment referred to in (2V)(a) at the same rate as that which applied to whichever of the earlier officer employments was the last to cease.

(2X) Where (2V) applies and all of the earlier officer employments referred to in (2V) (c) or the last two or more of them cease on the same day—

- (a) that performer’s pensionable earnings shall be determined by applying the formula—

$$\frac{EPE}{NDPE} \times 365$$

where—

EPE is an estimate of the total of all dentist performer pensionable earnings received for the days of pensionable employment in the 2008–2009 scheme year; and

NDPE is the number of days of pensionable employment, and

- (b) contributions payable shall be those specified in column 2 of Table 1 in respect of the amount of pensionable earnings referred to in column 1 of that Table corresponding to the practitioner’s pensionable earnings for the 2008–2009 scheme year calculated in accordance with this sub-paragraph.

(2Y) Where, at any time during the 2008-2009 scheme year, a practitioner (other than a dentist performer) also commences employment as a dentist performer (or vice versa) the employment as a practitioner (other than as a dentist performer) and the employment as a dentist performer will be treated separately under this paragraph.

(2Z) If none of the previous sub-paragraphs of this paragraph apply, for the purpose of determining a member’s relevant contribution rate the Secretary of State must determine the amount of the member’s pensionable pay to be attributed to the 2008-2009 scheme year and, in so doing shall, in addition to the matters referred to in paragraph (2A), have regard to the pensionable pay attributable to pensionable employment comparable to the member’s employment, prevailing pay scales and prevailing rates of pensionable allowances.”.

(10) In paragraph 10(3)(a) omit “and reaches age 65”.

(11) For paragraph 11(2) (Normal retirement pension) substitute—

“(2) In respect of—

- (a) any scheme year prior to the 2008-2009 scheme year, the member’s uprated earnings have been uprated in the manner determined by the Secretary of

State having consulted such professional organisations as the Secretary of State considered appropriate;

- (b) the 2008-2009 scheme year and any later scheme year, the member's uprated earnings are to be calculated by uprating the member's pensionable earnings by the amount of the annual increase due under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975, plus 1.5 per cent annually.

(3) Nothing in this paragraph shall be taken to require the Secretary of State to revisit the calculation of uprated earnings referred to in sub-paragraph (2)(a)."

(12) In paragraph 12—

- (a) for "regulation E2 (early retirement pension on grounds of ill health) is", substitute "regulations E2 and E2A are";
- (b) for "that regulation", substitute "regulation E2 or paragraphs (4) to (6) of regulation E2A".
- (c) after sub-paragraph (2), insert—

"(3) Regulation E2A is modified so that the definition of "regular employment of like duration" in paragraph (18) of that regulation means such employment as the Secretary of State considers would involve a similar level of engagement in the member's current pensionable service as a practitioner."

(13) After paragraph 16A (increased surviving civil partner's pension) substitute—

"Increased dependent surviving nominated partner's pension

16B. In the case of a member who made a nomination under regulation G15 (dependent surviving nominated partner's pension) that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6 April 1988 plus the relevant daily proportion for each additional day.

Increased surviving partner pension

16C. In the case of a member who made an election under regulation G17 (increased surviving partner's pension) that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6 April 1988 plus the relevant daily proportion for each additional day."

(14) For paragraph 17 (child allowance—member dies in pensionable employment) substitute—

"Child allowance—member dies in pensionable employment

17. In the case of members who die in pensionable employment as practitioners—

- (a) paragraphs (4C), (4D), (6) and (7) of regulation H3 (member dies in pensionable employment) are modified so that the references to the rate of the member's pensionable pay when he died is treated, in relation to the member's employment as a practitioner, as references to the average rate of the member's pensionable earnings during the last complete quarter before the member died;
- (b) paragraphs (10) and (12) of that regulation is modified so that the reference to the member's final year's pensionable pay when he died is treated as a reference to the yearly average of the member's uprated earnings at the date of death."

(15) After paragraph 17 (child allowance – member dies in pensionable employment), insert—

“Preserved pension

17A. Regulation L1 is modified so that the definition of “regular employment of like duration” in paragraph (14) of that regulation means such employment as the Secretary of State considers would involve a similar level of engagement to the member’s pensionable service as a practitioner immediately before that service ceased.”.

(16) Paragraph 19(6) (members absent from work) is omitted.

(17) After paragraph 22 (reduction of pension on return to NHS employment) insert—

“Benefits on death in pensionable employment after pension becomes payable

22A. The following provisions are modified so that the reference to the member’s rate of pensionable pay when he dies is treated as a reference to the average rate of the member’s pensionable earnings during the last complete quarter before the member died—

- (a) paragraphs (7) and (12) of regulation S4 (benefits on death in pensionable employment after pension under regulation E2 becomes payable); and
- (b) paragraphs (10) and (15)(a) of regulation S4A (benefits on death in pensionable employment after pension under regulation E2A becomes payable).”.

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

11 Reg. 65 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 65.