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STATUTORY INSTRUMENTS

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**2009 No. 2446**

**The National Health Service Pension Scheme,  
Injury Benefits and Additional Voluntary  
Contributions (Amendment) Regulations 2009**

**PART 3**

**Amendment of the National Health Service Pension Scheme Regulations 2008**

**Amendment of regulation 2.D.8**

**29.**—(1) Regulation 2.D.8 (early retirement on ill-health (active members and non-contributing members)) shall be amended as follows.

(2) For paragraph (5)(b), substitute—

- “(b) is not increased by the enhancement period in the circumstances referred to in (a) if—
- (i) the member’s pensionable service before and after the break is treated separately under regulation 2.G.2; or
  - (ii) the member’s pensionable service in respect of an earlier service credit is treated separately under regulation 2.K.7.”.

(3) In paragraph (17), for the definition of “permanently” substitute—

““permanently” means—

- (a) the period until age 65, and
- (b) in the case of a 2008 Section Optant who, before joining this Section of the Scheme, was assessed by a medical adviser as being—
  - (i) permanently incapable of efficiently discharging their duties for the purposes of regulation E2A(2)(b)(i) of the 1995 Regulations (ill-health pension on early retirement), that Optant shall be deemed to be permanently incapable of discharging the duties of the Optant’s employment efficiently for the purposes of paragraph (2) (a) of this regulation;
  - (ii) permanently incapable of regular employment of like duration for the purposes of regulation E2A(2)(b)(ii) of the 1995 Regulations, that Optant shall be deemed to be permanently incapable of engaging in regular employment of like duration for the purposes of paragraph (3)(a) of this regulation;”.

(4) After paragraph (17), insert—

“(18) In the case of a 2008 Section Optant, this regulation is subject to regulations 2.K.12 and 2.K.14 to 2.K.18.”.