
STATUTORY INSTRUMENTS

2013 No. 413

**The National Health Service Pension Scheme,
Additional Voluntary Contributions and Injury
Benefits (Amendment) Regulations 2013**

PART 5

Amendment of the National Health Service (Injury Benefits) Regulations 1995

Part 5: General

81. The National Health Service (Injury Benefits) Regulations 1995⁽¹⁾ are amended in accordance with this Part.

Amendment of regulation 2

82. In regulation 2 (interpretation), in the definition of—

- (a) “APMS contract”⁽²⁾ “GMS practice”⁽³⁾, and “medical performers list”⁽⁴⁾, for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (b) “APMS contractor”⁽⁵⁾, in paragraph (a), for—
 - (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”; and
 - (ii) “section 83(2)(b)” substitute “section 83(2)”;
- (c) “average remuneration”—
 - (i) in paragraph (c) for “regulation 4(3)”, substitute “regulation 4(3A) or (3D)”;
 - (ii) in paragraph (d) for “regulation 4(4) or (5)”, substitute “regulation 4(4), (4B), (5) or (5C)”;
- (d) “employing authority”—
 - (i) omit paragraphs (za) and (bb); and
 - (ii) after paragraph (h), insert—
 - “(i) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012;
 - (j) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012;”;
- (e) “PMS practice”, for—

⁽¹⁾ [S.I. 1995/866](#).

⁽²⁾ Amended by [S.I. 2008/655](#), regulation 3(1), (2)(a), (b).

⁽³⁾ Substituted by [S.I. 2008/655](#), regulation 3(1), (2)(a), (b), and amended by [S.I. 2010/492](#), regulation 53(1), (2)(a)(i), (ii).

⁽⁴⁾ Substituted by [S.I. 2008/655](#), regulation 3(1), (2)(a), (b).

⁽⁵⁾ Amended by [S.I. 2011/2586](#), regulation 36.

- (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”; and
- (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”.

Amendment of regulation 3

- 83.** In paragraph (1) of regulation 3 (persons to whom the regulations apply)—
- (a) in sub-paragraph (k)(6), for “and is” substitute “and was, prior to 31st March 2013,”;
 - (b) in the full-out words, for “sustains an injury or contracts a disease” substitute “sustains an injury before 31st March 2013, or contracts a disease before that date,”.

Amendment of regulation 4

- 84.**—(1) Regulation 4 (scale of benefits) is amended as follows.
- (2) In paragraph (1)—
 - (a) for “Subject to paragraph (5), benefits” substitute “Benefits”;
 - (b) after “disease” insert “and who makes a claim in accordance with regulation 18A”.
 - (3) In paragraph (2)—
 - (a) after “ceases to be employed”, insert “before 31st March 2018”;
 - (b) after “paragraph (5)” insert “or (5A)”;
 - (c) for “reduced at that date”, substitute “permanently reduced at the date that person ceases that employment”.
 - (4) After paragraph (2), insert—
 - “(2A) This paragraph applies to a person to whom regulation 3(1) applies who—
 - (a) ceases employment on or after 31st March 2018 but before 31st March 2038 by reason of the injury or disease, and
 - (b) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.
 - (2B) Where paragraph (2A) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of the person’s cessation of employment an annual allowance of the amount referred to in paragraph (2C).
 - (2C) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person’s average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person’s service in relation to the degree by which that person’s earning ability is permanently reduced at the date that person ceases that employment: for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.
 - (2D) Evidence is compelling if—
 - (a) it is reliable,
 - (b) its value for understanding and determining the person’s claim for benefit is substantial, and
 - (c) it is highly probative of that claim.”.
 - (5) For paragraph (3), substitute—

- “(3) This paragraph applies to a person to whom regulation 3(1) applies who—
- (a) ceases to be employed before 31st March 2018 other than by reason of the injury or disease,
 - (b) at the date of ceasing that employment has not attained normal benefit age,
 - (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
 - (d) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3A) Where paragraph (3) applies the Secretary of State may pay from the date that the person attains normal benefit age or, as the Secretary of State may in any particular case allow, from the date that person suffers the reduction in earning ability referred to in paragraph (3)(c), an annual allowance of the amount referred to in paragraph (3B).

(3B) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person’s average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person’s service in relation to the degree by which that person’s earning ability is permanently reduced at the date referred to in paragraph (3A): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

- (3C) This paragraph applies to a person to whom regulation 3(1) applies who—
- (a) ceases employment on or after 31st March 2018 but before 31st March 2038 other than by reason of the injury or disease,
 - (b) at the date of ceasing employment has not attained normal benefit age,
 - (c) having ceased that employment, suffers a permanent reduction in earning ability by reason of that injury or disease, and
 - (d) has not been paid, other than under paragraph (5) or (5A), any allowance or lump sum under these Regulations in consequence of that injury or disease.

(3D) Where paragraph (3C) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date that the person attains normal benefit age or, as the Secretary of State may in any particular case allow, from the date that person suffers the reduction of earning ability referred to in paragraph (3C), an annual allowance of the amount referred to in paragraph (3E).

(3E) That amount is an amount, if any, which when added to the value of any of the pensions and benefits specified in paragraph (6) will provide an income of the percentage of the person’s average remuneration shown in whichever column of the table in paragraph (2) is appropriate to that person’s service in relation to the degree by which that person’s earning ability is permanently reduced at the date referred to in paragraph (3D): for these purposes the value of any such pensions and benefits is to be expressed as an annual amount.

- (3F) Evidence is compelling if—
- (a) it is reliable,
 - (b) its value for understanding and determining the person’s claim for benefit is substantial, and
 - (c) it is highly probative of that claim.”.

(6) In paragraph (4) after “in that regulation” insert “before 31st March 2018”.

(7) After paragraph (4), insert—

“(4A) This paragraph applies to a person to whom regulation 3(1) applies who suffers a permanent reduction in the emoluments of an employment mentioned in that regulation on or after 31st March 2018 but before 31st March 2038.

(4B) Where paragraph (4A) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of that reduction an annual allowance of the amount referred to in, and calculated in accordance with, paragraph (4).

(4C) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person’s claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(8) In paragraph (5), after “1991” insert “but before 31st March 2018”.

(9) In paragraph (5A), for “of his” substitute “of that person before 31 March 2013”.

(10) After paragraph (5A), insert—

“(5B) This paragraph applies to a person to whom regulation 3(1) applies who, on or after 31st March 2018 but before 31st March 2038, is or was on leave of absence with reduced emoluments by reason of the injury or disease.

(5C) Where paragraph (5B) applies the Secretary of State may, if satisfied that the evidence produced by the person is compelling, pay from the date of the reduction of the person’s emoluments, an annual allowance of the amount referred to in paragraph (5D): the annual allowance is without regard to any reduction in the person’s earning ability.

(5D) That amount is an amount, if any, which when added to the value of Amount A will provide an income of 85 per cent of the person’s average remuneration: for these purposes Amount A is to be expressed as an annual amount.

(5E) Amount A is the aggregate of—

- (a) the emoluments payable to the person during that person’s leave of absence, and
- (b) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) (including the value of any equivalent benefits payable under the enactments consolidated by the Social Security Contributions and Benefits Act 1992).

(5F) Evidence is compelling if—

- (a) it is reliable,
- (b) its value for understanding and determining the person’s claim for benefit is substantial, and
- (c) it is highly probative of that claim.”.

(11) In paragraph (6) , after sub-paragraph (b)(vi) add—

“(vii) an injury allowance payable on or after 31st March 2013 in accordance with the Terms and Conditions of the person’s employment.”.

(12) After paragraph (10), add—

“(11) In paragraph (6) of this regulation “injury allowance” means the allowance by that name referred to in the NHS Terms and Conditions of Service Handbook.”.

Amendment of regulation 4A

85.—(1) Regulation 4A (recovery of costs)(7) is amended as follows.

(2) In paragraph (2) of regulation 4A (recovery of costs), for “paragraph (2), (3), (4)” substitute “paragraphs (2), (2B), (3A), (3D), (4), (4B)”.

(3) In paragraph (6)—

(i) for “Primary Care Trust” substitute “the National Health Service Commissioning Board”;

(ii) for “as if he were an officer of the” substitute “as if that person were an officer of the National Health Service Commissioning Board or”;

(iii) after “Local Health Board” omit “or Primary Care Trust”.

(4) In paragraph (7)—

(a) after “Committee”, insert “before 31st March 2013”;

(b) after “that Primary Care Trust”, insert “before that date and, on or after that date, as if that person were an officer employed by the National Health Service Commissioning Board”.

Amendment of regulation 18A

86.—(1) Regulation 18A (claims for benefits) is amended as follows.

(2) At the end of paragraph (1), insert (as full out words) “This is subject to paragraph (1A).”.

(3) After paragraph (1), insert—

“(1A) No person shall be entitled to a benefit under regulation 4(2B), (3D), (4B) or (5C) unless that person—

(a) makes a claim for it; and

(b) the claim is made within a period of 6 months, or such longer period as the Secretary of State decides is reasonable, commencing with the date on which the person became aware, or in the view of the Secretary of State the date on which it is reasonable to expect them to have become aware, that they may be a person to whom regulation 3(1) applies.”.

(4) After paragraph (3), add—

“(4) This regulation applies to claims for benefits made before 31st March 2038 and no entitlement to benefit arises if the date of the claim is on or after that date.

(5) This regulation is subject to regulation 18B.”.

New Regulation 18B

87. After regulation 18A (claims for benefits), add—

“18B Claims: Additional matters

(1) Other than a claim in respect of a benefit referred to in regulation 4(5) or (5A), a claim for benefit under Part II or Part III of these Regulations is to be made to the Secretary of State in such form as the Secretary of State is willing to accept.

(2) A claim in respect of a benefit referred to in regulation 4(5) or (5A) is to be made to the person’s employing authority in such form and in such a manner as that authority may accept.

(7) Inserted by [S.I. 1997/646](#), regulation 5. Paragraphs (6) and (7) were substituted for paragraph (6) by [S.I. 2000/606](#), regulations 2, 6 and paragraph (6) was further substituted by [S.I. 2006/600](#), regulation 25.

(3) A claim must be accompanied by all the medical evidence necessary to determine whether conditions of entitlement for the benefit are satisfied.

(4) In the case of a claim for a benefit which is to be made to the Secretary of State, if the Secretary of State notifies that person in writing that the Secretary of State so requires, that person is to provide any specified relevant information including medical evidence that is in that person's possession or which that person can reasonably be expected to obtain.

(5) In the case of a claim for a benefit which is to be made to a person's employing authority, if that authority notifies that person in writing that it so requires, that person is to provide any specified relevant information including medical evidence that is in that person's possession or which that person can reasonably be expected to obtain.

(6) In the case of a claim which is to be made to the Secretary of State, the date of the claim is to be the date on which the form the Secretary of State is willing to accept is received by the Secretary of State.

(7) In the case of a claim which is to be made to the person's employing authority, the date of the claim is to be the date on which that authority receives that claim in the form and manner it accepts."

Amendment of regulation 21A

88.—(1) Regulation 21A (decisions by medical practitioners and other persons) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (a), for "regulation 4(2), (3) or (4)" substitute "regulation 4(2), (2B), (3A), (3D), (4) or (4B)";
- (b) in sub-paragraph (b), after "regulation 4(5)" insert "or (5C)".

(3) After paragraph (2), add—

"(3) A person or authority referred to in paragraph (2) must record in writing the date on which that person or authority considers the injury or disease in question was sustained or contracted."

Amendment of regulation 21B

89. After paragraph (3) of regulation 21B (notification requirements), add—

"(4) A person who is in receipt of a benefit under Part II of these Regulations must notify the Secretary of State within 14 days, and in writing, of any change in the person's earnings or employment."